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EDITORIAL

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President Reagan's suggestion that the United Nations quit Turtle Bay for Lenin Hills or some other more congenial setting can hardly be called the cornerstone of the Administration's foreign policy. But neither is it entirely irrelevant to it.

New York was chosen as the site for the United Nations at the insistence of Trygve Lie, the first Secretary General, who hoped the physical presence of the institution on American soil would weigh against the kind of isolationist sentiment here that helped destroy the League of Nations. But internationalism is more of a problem with U.S. foreign policy in this half of the century than isolationism, which sometimes seems splendid by comparison. The U.N.'s integration into American geography tends to encourage Presidents to use the world body as an extension of domestic politics, by other means.

That's true for obscure or upstart pols as well. Jeane Kirkpatrick and George Bush are U.N. babies. Daniel Patrick Moynihan built his senatorial career on a series of jeremiads he spouted at U.N. sessions. Mayor Ed Koch gets great mileage from the organization; last week he gleefully called it "a cesspool."

The weak and fragile structure of the United Nations is hardly enhanced by its function in the American political system, so why not move it to a distant site, far from the omnipresent glare of media lights, the hot breath of imperial interests, the temptations of the glamorous life in Fun City? Moscow would be inappropriate, not only because there are no truly great discos or three-star restaurants there but also because Soviet politicians can't be trusted to treat the United Nations any better than American ones. Europe is pleasant but passé. That leaves the Third World: surely there's a place that's warm in the winter and cool in the summer, with unlimited parking for limousines with DPL plates.

DEMOCRATS SUPINE
Christopher Hitchens

THE LIBEL DILEMMA
Aryeh Neier
Martin Garbus

WHOSE RIGHT TO WHAT LIFE?
Laura Shapiro

CONFESSIONS OF A MARXIST CAPITALIST
Paul Berman

RAPE AND ROMANCE
Ann Snitow

THE SIMPSON-MAZZOLI BILL

SUPPLY-SIDE IMMIGRATION REFORM

GEOFFREY RIPS

On June 20, speaking at a Republican Party dinner in Jackson, Mississippi, President Reagan warned that failure to increase U.S. military and economic aid to Central America would result in "a tidal wave of refugees—and this time they'll be 'feet people' and not 'boat people,' swarming into our country seeking a safe haven from communist repression to our south." Reagan was right in saying that there is a correlation between patterns of immigration and our economic and political policies at home and abroad. Unfortunately, the correlation he made was the wrong one.

Every thirty years or so the United States undergoes a xenophobic convulsion in the name of "immigration reform." The Simpson-Mazzoli Immigration Reform and Control Act, now before the House, is a product of the latest such spasm. Popular support for such "reform" is characteristically fanned by the sort of jingoism President Reagan resorted to in his Mississippi speech. In 1954, when hundreds of thousands of illegal Mexican workers were deported, the acting commissioner of the Immigration and Naturalization Service appealed to the gods of the cold war in testimony before Congress, saying that 100 "Communists and ex-Reds" were crossing the border daily. Today we are given dire warnings of hordes of "feet people," and of the invasion of uncontrollable masses. "The swelling population of Mexico, driving millions of illegal aliens over the border," former Director of Central Intelligence William Colby said, "is a greater threat to the future of the United States than the Soviet Union."

(*Continued on Page 303*)

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LETTERS.

SIDNEY LENS RESPONDS

Chicago

If I understand Richard Falk correctly, he agrees with me that the nation-state and the war system with which it is associated must be dumped in favor of global unity ["World Government Reconsidered," *The Nation*, Sept. 17]. But he feels the term "world government" implies that this unity will come about through a compact between government leaders, or worse still, between the American and Soviet governments, rather than as a result of a struggle from below. I fully agree with Falk. If "world government," or whatever one chooses to call it, comes about solely through the actions of leaders, it will be predisposed toward dictatorial forms. But if people at the grassroots level push their governments step by step, through the same kinds of actions they are currently engaged in on behalf of disarmament, global unity can be truly democratic and humanistic. . . .

Kirkpatrick Sale, by contrast with Falk, disagrees with my basic concept: the need for global unity. He points out that "ever larger governments have not ended wars, they have created them," and that the experience of the United Nations proves that global unity is doomed to failure. I think Sale has missed the point entirely. He reads history as if it were an evenly paced progression which allows for no quantum jumps. It is true that in the era of the nation-state there has been one war after another, each exacting a greater cost than the previous one. In my view, however, both the increasing size of nation-states and the increasing number of casualties in war are the result of technological changes. The gun is more deadly than the spear, the machine gun more than the gun, the cannon more than the machine gun, the nuclear bomb more than the rest put together. Sale contradicts his main thesis when he says we should not seek to eliminate war but to reduce the "scale" of it. It is precisely because the scale of war has now become total that there has been a quantum jump in world history. Wars in the past were "winnable"—one nation would win, one would lose, but the winner would survive as a viable society. That is no longer the case. Neither side in a global nuclear engagement can win; both are doomed to eclipse. . . .

Sale is off the mark, too, when he refers to the United Nations as if it were a form of world government. On the contrary, it is, as Giuseppe Borgese has noted, "the last refuge and alibi of the age of nations." Not a single nation in the United Nations has given up even a minimal amount of sovereignty to the central body; the United Nations is the exact opposite of world government.

I admire Sale's anarchism—his desire to divide "nation-states into coherent regions"—but I don't think the goals of anarchism, such as freedom and the self-enforcement of the rights of others, can be achieved solely by dividing political units into smaller segments. If humanity is to liberate itself, it will have to develop on the one hand a more centralized form of government (world government) and on the other hand a more decentralized form. In the latter, people will have greater say over their lives by means of what I have termed "participative democracy." . . . As Falk suggests, neither true democracy nor survivability will be possible unless the process of decision-making is decentralized.

Paul Sweezey's point is interesting but not conclusive. He assumes that world government would come about only through a "joint U.S.-Soviet world empire." This is certainly something none of us would like to see come about, but I'm surprised that a renowned Marxist scholar would deprecate the idea of world government simply because one of its forms may be undesirable. World community was a central part of the scenario laid out by Marx and Lenin. Perhaps what bothers Sweezey is the same thing that bothers Falk, namely that a basic change in our social order that comes about from "on top" will be very much flawed. I agree with that, but I'm sorry Sweezey chose to be so brief and so negative in his critique.

The Nation deserves three big cheers for opening up a discussion on the issue of world government. I hope it will follow through by organizing a symposium on the issue. The subject is worthy of prolonged scrutiny.

Sidney Lens

THE BURGER COURT—IT INTRUDES

Pittsburgh

Stephen Gillers does a perceptive job of pointing out the Burger Court's decent, if unspectacular, record in many areas of civil rights and civil liberties law ["The Warren Court—It Still Lives," *The Nation*, Sept. 17]. But he ignores one significant area in which the Court's record is abysmal: the Fourth Amendment law of search and seizure.

The Burger Court, with Justice Rehnquist in the lead, has systematically whittled away Fourth Amendment protections to the point where the constitutionality of a police practice is now evaluated more on the basis of the practice's effectiveness than on the depth of its intrusion into individual privacy. This past term, the Court legitimized an admitted intrusion (the detention and boarding of a vessel in inland waters) without requiring any Fourth Amendment constraints—not even suspicion—on the decision of law enforcement officials. This is the first time the Supreme Court has allowed suspicionless search-and-seizure activity except at the border or at permanent Customs Service checkpoints on roads leading from the border.

. . . In another decision this past summer, the Court approved the warrantless, surreptitious use of radio transmitter "beepers" on cars. The defendant in that case argued that if beepers were held to be outside Fourth Amendment coverage, much more extensive warrantless electronic surveillance could be legitimized; Rehnquist, writing for the majority, cavalierly responded that "if such dragnet type law enforcement practices as [the defendant] envisions should eventually occur, there will be time enough then to determine whether different constitutional principles may be applicable." It is impossible to imagine the Warren Court writing such a complacent and shortsighted decision.

Not all of the current Justices have acted so indifferently. William Brennan, who emerges as the hero in Gillers's article, is also (along with Justice Marshall) a persistent champion of an untrammeled Fourth Amendment. But in this area, unlike those described by Gillers, Brennan seldom manages to attract majority support, particularly since Sandra Day O'Connor replaced Potter Stewart, who was an advocate of privacy rights. Instead, Brennan is forced to rail in dissent at the majority's regular "defacement of Fourth Amendment protections . . . arrived at by a balancing . . . method [which] is only a convenient cover for condoning arbitrary official conduct."

The biggest test for search-and-seizure law is on the horizon. This term the Justices will have the opportunity to adopt a "good faith exception" to the exclusionary rule. Rumor has it that the Court is split 4 to 4 on this issue, with Justice Blackmun the swing vote. Blackmun, a liberal-come-lately on many civil liberties questions, has shown little concern in the past about Fourth Amendment values. But this decision is critical, for it will determine whether or not privacy rights will be held hostage to the benign ignorance of searching police officers. . . .

John M. Burkoff, Professor,
University of Pittsburgh Law School

GILLERS REPLIES

New York City

I share John M. Burkoff's dismay with the Burger Court's Fourth Amendment decisions. But even these have been better than we might reasonably have expected had we known in 1968 which Presidents would be picking the next six Justices.

Further, two of the cases Burkoff mentions were decided by 7-to-2 votes, which suggests that they might have gone the same way in the Warren era. In the third case, the defendant only challenged the monitoring of the "beeper," not its installation. The Court unanimously rejected this challenge.

Finally, Burkoff overlooks a number of victories. These include a major decision that police officers may not enter a house without a search warrant to make an arrest, and other decisions limiting the use of "drug courier profiles" as the basis for airport arrests.

Stephen Gillers

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EDITORIALS.

Popcorn Politics

The 1984 Presidential campaign will be the first in the nation's history to open with a Hollywood premiere. *The Right Stuff* not only celebrates the high-tech heroism of candidate John Glenn; it also sets the style and substance of politics in the year to come (if real life follows the script): nostalgic, mythic, docudramatic and devoid of any issue or idea that could enliven the electoral discourse. It's too bad for us all that only the movie lasts three hours and ten minutes.

Glenn's luck, or timing, is phenomenal. *The Right Stuff* is the ultimate commercial tie-in, the perfect ancillary and subsidiary package. No T-shirts or video games here: they're selling the White House from multiscreen cinemas in malls all over America. Glenn's politics, on the other hand, are not so supercolossal. He's a hawk on defense, a cold warrior on foreign policy, a corporate apologist, an environmental slouch and an economic prude.

Ideologically, Glenn should be Ronald Reagan's favorite Democrat. He has voted with the President on the budget,

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on nerve gas and on the B-1; he supported draft registration, the neutron bomb and arms sales to Chile before the President did. He's soft on acid rain, leery of labor and properly distant from women and minorities. Politically, however, Reagan must fear that Glenn would be the strongest Democratic opponent, that he cuts so far into the Republicans' center and right-wing constituencies that he poses the greatest threat to the G.O.P.'s "new majority."

If all this sounds like the stuff of a political movie, it's no coincidence. The media have stopped asking and writing about the meat of politics: power, conflict, insurgency and reform. Instead, we get an overdose of the popcorn: delegate counts, straw polls, campaign chests, endorsements, defections, color and kitsch.

Production schedules being what they are, the other candidates have no time to crank out their own movies to compete with Glenn's. If they were smart, however, they would claim previously released films for their own. Walter Mondale, for instance, might announce that the current film *I Married a Shadow* is the true-life story of his wife, Joan. Gary Hart, who seems to be talking only to himself these days, could buy into the TV series *Hart to Hart*. Is *Moon Over Miami* the Reuben Askew story? And jogger Alan Cranston has the perfect vehicle: *The Loneliness of the Long Distance Runner.*

The War at Home

The war in Central America came home in a small but startling way recently when two priests and an Army Reserve warrant officer made a series of bold forays into the U.S. Army base at Fort Benning, Georgia. Their mission was to persuade Salvadoran Army officer corps candidates to desert their government's military machine.

On July 31, Father Roy Bourgeois, a Maryknoll priest, Father Larry Rosebaught, an Oblate priest, and Linda Ventimiglia, the Reserve officer, donned military uniforms, slipped into the base and penetrated the area where the Salvadoran troops were barracked. They walked from building to building for twenty-five minutes, distributing leaflets and urging the soldiers to desert. They were arrested and released.

The following morning they again assumed their disguises and returned in time for Sunday services at the base chapel, where they distributed leaflets to U.S. Army personnel. Again they were arrested; they were charged with criminal trespass and escorted off the post.

A week later, the brazen threesome put on their uniforms and slipped through tightened security into the base. This time they were armed with a tape player and mountaineering equipment. Using crampons and a rope ladder, Father Bourgeois scaled a towering pine tree near a training field only forty yards from the main guard station. The others followed him up, the ladder was lifted and the "blaster" was lowered.

Suddenly the booming voice of Salvadoran Archbishop Oscar Romero roared from the speaker. The words were those he spoke in his final sermon, just before he was assassinated in San Salvador on March 24, 1980:

> I want to make a special appeal to the soldiers. . . . The *campesinos* you kill are your brothers and sisters. . . . In the name of God, and in the name of our tormented people who have suffered so much and whose laments cry out to heaven, I beseech you, I beg you, I order you in the name of God, *stop the repression*!

M.P.s scrambled about the field, but the trio remained concealed for half an hour. Father Bourgeois followed the Archbishop's appeal with a taped call for the soldiers to apply for political asylum. Only after the M.P.s spied the three demonstrators and threatened to shoot did they come down. More charges were lodged, and the F.B.I. began an investigation.

Two days later, a candlelight vigil materialized on the front lawn of the post commander's home. The undaunted "life squad" had returned, with five supporters. M.P.s arrived and ejected them from the base. Later, F.B.I. agents and local police officers arrested the three leaders at Father Bourgeois's home. They were tried last month: Father Bourgeois received an eighteen-month sentence; the other two got fifteen months. A few days after the trial, the 487 combat-ready Salvadorans returned, on schedule, to their country.

Apartheid Inc.

Two years have passed since the Reagan Administration announced its policy of "constructive engagement" with South Africa and removed the Carter Administration's restrictions on trade with the apartheid regime. (Those restrictions prohibited the export of certain high-tech, industrial and military-related products and attempted to discourage investment in new plants in South Africa.) At the time, President Reagan argued that his policy would be more effective in ending apartheid than one of isolating South Africa by trade embargoes. The South Africans, he said, would be exposed to enlightened American corporate practices, and the economic lot of many black workers would be improved by higher American wages.

Two years of constructive engagement show that those claims were inaccurate. According to recent surveys by the International Labor Organization and various U.N. agencies, constructive engagement has given U.S. corporations a green light for investment in South Africa, with absolutely no moral or social constraints.

There are conflicting figures on the amount of U.S. investment in South Africa, depending on what methods of accounting are used. For example, until this summer the State Department calculated U.S. investment at $2.5 billion. The Nonaligned Nations put the figure at $6 billion. An August State Department cable, however, put the amount at $14.5 billion. Nevertheless, U.N. documents indicate that U.S. investments in South Africa may have grown by as much as $8 billion over the past three years. More than

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1,000 corporations now profit from their collaboration with the racist regime. (The exact amount of foreign investment in South Africa cannot be calculated because the government will not disclose information about certain sectors of the economy, for security reasons.)

In 1982, the United States replaced Britain as South Africa's primary trading partner and its largest source of corporate investment. A list of the top fifty foreign investors in South Africa compiled by the U.N. Special Committee Against Apartheid names eighteen American corporate giants. These companies dominate South Africa's automotive, energy and high-technology sectors, and make significant contributions to its military strength.

Who are they? They include Burroughs, Control Data, I.B.M., N.C.R. and the Sperry Corporation, which virtually control South Africa's computer industry (I.B.M. South Africa has a 40 percent share of the market). Also listed are American Motors, Chrysler, Ford and General Motors, which have South African sales offices; Chrysler, Ford and G.M. have also opened manufacturing plants, which turn out one-third of all the cars and trucks sold in South Africa. Caltex and Mobil are the country's leading suppliers of petroleum products. American banks play a prominent role in South African finance. In the past several years, twenty-six American banks have lent more than $1 billion to public (i.e., government agencies or companies) and private borrowers. Citicorp participated in $545 million worth of loans during that period, and its South African subsidiary is the twenty-third largest bank in the country.

American companies such as AMAX, Fluor, Hanna Mining, Phelps Dodge and the Zapata Corporation, which have been involved in mining operations in Namibia, continue to show interest in that country's natural resources. Those resources are protected by U.N. Resolution 2145, passed in 1966, which terminated South Africa's mandate in Namibia, and Resolution 3295, passed in 1974, which prohibits the taking of resources "without the consent and permission of the U.N. Council for Namibia." Ten percent of the West's uranium is mined in Namibia, and American companies like Conoco, Getty, Mobil, Standard Oil of California and Texaco suspect there may be vast reserves of oil in the Etosha Pan region. Currently, Western firms, which obtain their licenses from the illegal South African administration in Namibia, take out 36 percent of the country's gross domestic product in the form of profits, dividends and fees; that money then flows to their parent corporations.

All this U.S. investment has not significantly improved the living standards of black workers relative to whites. The average monthly wage of blacks is one-fourth of that earned by whites—as it was in 1971. In some sectors of the economy, the income gap between whites and blacks has actually widened.

The Sullivan Code, drawn up by the Rev. Leon Sullivan of Philadelphia in 1977, calls on U.S. companies with plants in South Africa to integrate work facilities, provide equal pay for equal work and train blacks for supervisory and technical jobs. But this voluntary code is adhered to by less than half of the American firms there. The code does not attempt to deal with the key issue of equal opportunity for blacks. According to a 1983 International Labor Organization study, blacks, who make up 80 percent of South Africa's work force, hold less than 1 percent of all managerial and administrative positions and less than 25 percent of all professional and technical jobs.

There is rarely even a semblance of dialogue between management and the black labor force. Most American companies have steadfastly opposed the unionization of black workers at their plants. Caltex, Coca-Cola, Firestone, I.B.M., Goodyear, Johnson & Johnson, Kimberly Clark, Mobil, 3M, Newmont Mining, Otis Elevator and Union Carbide are among the American firms with a high proportion of black employees that neither recognize nor negotiate with any of the black trade unions.

Many American companies investing in South Africa under the constructive engagement policy are involved in projects that will increase the country's economic and military power, thus strengthening the apartheid system. For example, Control Data and the Fluor Corporation have been instrumental in building the sophisticated SASOL II and III oil-from-coal projects. These $7.5 billion facilities clearly have strategic and military importance: they will insure that South Africa, which has no indigenous oil reserves, would not be crippled economically by an oil embargo.

American companies also sell South Africa enriched uranium (SWUCO, Foxboro, Edlow International) and reactor technology (Babcock & Wilcox, Bechtel, Westinghouse). Beechcraft, Ford and G.M. supply planes and trucks to the South African Army.

There are three bills before Congress that would limit trade with South Africa or impose an embargo. Of these, H.R. 1693, introduced by Representative Stephen Solarz earlier this year, has attracted the most support and has eighty-one co-sponsors. It would ban the import of South African krugerrands and other gold coins, ban U.S. bank loans to the South African public sector and make adherence to the Sullivan Code mandatory.

H.R. 1877, introduced by Representative Howard L. Berman, would revive the export controls imposed by the Carter Administration and halt all exports that would sustain the South African military machine. The third bill, Representative William H. Gray 3d's Prohibition on Investment in South Africa Act, would ban new investment there.

These three bills, which would curtail U.S. corporate support of the racist regime in Pretoria, have little chance of passage, and even less of being signed by President Reagan. In its opposition to restrictions on trade with South Africa, the Administration conveniently forgets the arguments it advances when it wants to apply economic sanctions against the Soviet Union—that they will force it to modify policies the United States opposes. But Pretoria's fanatical anticommunism makes it a cold-war ally worth its weight in krugerrands.

JOSH MARTIN

Josh Martin is U.N. correspondent for Multinational Monitor.

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MINORITY REPORT.

CHRISTOPHER HITCHENS

Anybody who spends any time observing this Congress is forced, periodically, to ask the same question. It's a recurrent question because it concerns Democratic funk. Whether one is a supporter or an opponent of the President, one is compelled to marvel at the utter want of spine to be found among the loyal opposition on the Hill. On the budget (or on the reductions in same), on the MX missile, on chemical warfare, the Democratic leadership, like clowns in some low circus, seem to wait nervously for their cue to fall down and roll in the sand. When the cue comes, they appear to feel an overpowering sense of relief—as if the sheer maintenance of upright posture had been a strain.

The charade over the War Powers Act, with Democrats imploring the President for a chance to endorse him and promising him they will overlook his breach of the law if he mends it in time, is one example. The Boland amendment, which prohibits the levying of war on the Nicaraguan government for the purpose of its overthrow, is another. Last month Managua was bombed from the air—no doubt in order to induce a change of heart in the Sandinist leadership—and nobody in Washington seemed to give a damn.

Indeed, days later, on September 22, the Senate Intelligence Committee voted 13 to 2 to provide $19 million in fiscal 1984 for operations against Nicaragua. Almost every Democrat was among the thirteen. Allegedly, George Shultz and William Casey had convinced the doubters with a "new" justification. No longer was the Administration destabilizing Nicaragua because of its aid to the rebels in El Salvador, they said. Now the aim is to discourage the advocacy of "revolution without frontiers" in the region. To those being bombed in Managua, that might seem to be a distinction without a difference; if there is a difference, it is certainly one that permits the Administration more latitude.

In this dismal scene of Democrats rushing to share not only the conclusions but the assumptions of the President, there is one striking exception. Representative Wyche Fowler of Georgia has been arguing against the Central Intelligence Agency's war on Nicaragua from its inception. Now, in hearings before the House Intelligence Subcommittee, which he chairs, he has been testing his own legislative proposals to limit covert action. The proposals are embodied in three bills, and if enacted (which will occur on the same day that pigs take wings), they would insure prior Congressional approval of military or paramilitary undertakings by the C.I.A. and, what is more important, Congressional control over the funding of such actions. This might prevent the C.I.A.'s abuse of its "contingency reserve fund," and the discovery, so often made in the past, that a minor operation had "just growed." It would also save legislators from moral blackmail. As things stand, they can try to stop a "secret" war only after it has started, which means they can be accused of stabbing field operatives in the back and of other unlovely and un-American things.

The testimony before the committee makes absorbing reading. Fowler went miles out of his way in order to stress that his legislation would actually strengthen American capabilities. But those who testified in its favor made no secret of their conviction that increased Congressional oversight would or should inhibit, if not prevent, such actions as the murders of Allende and Lumumba and the deliberate deception of Congress and the media by an agency with no rights of domestic intervention.

At present, said Fowler, there are at least two covert operations that threaten to get out of control. He was too tactful to specify what they are, but it seems pretty certain that one of them is in Chad, where the C.I.A. helped in the overthrow of former President Goukouni Oueddei (while, of course, only meaning to "send him a signal"). The budget for that operation is said to have been as high as $22 million. Other candidate targets are Angola, the Philippines and, throwing bad money after bad, Chile. When things go wrong, as they infallibly will, Congress will be hard put to raise a stink, because it has, after all, been "notified," and thus can hardly tell the C.I.A. "*we* told *you* so."

That this state of affairs is intended and not ironic was made very clear by the witnesses for the Reagan Administration. William Casey and a senior State Department official, both scheduled to testify, canceled at the last minute. Instead they relied on surrogates. Of these, the most interesting and revealing was Ray Cline. Cline, a former C.I.A. eminence and intelligence adviser to the Reagan team, is now a Taiwan lobbyist and an ornament of the Center for Strategic and International Studies at Georgetown University. His book *Secrets, Spies and Scholars* contains the following wonderful piece of reasoning: "It was not illogical" for the C.I.A. to use the Mafia in an attempt to murder Fidel Castro, since the mob's "former Havana gambling empire gave them some contacts to work with and since a gangland killing would be unlikely to be attributed to the U.S. government."

A man as naïve as that makes the perfect witness for Reaganite realism. As he told Fowler's subcommittee, "responsible leaders in Congress ought to be aware of such programs, but to succeed they *must* be covert and not disclosed to the general public."

In other words, Congress is made co-responsible but is not actually consulted. It would be better, in such cases, not to be told at all. Fowler's legislation contains some idealistic formulations—he proposes an untestable definition of "essential" to determine if U.S. interests warrant covert intervention, and he asks that such actions be taken only on behalf of policies already defined for, and supported by, the American people. An unscrupulous President could interpret either restraint pretty broadly, and an invertebrate Congress could permit him to do so. But even that would be preferable to the present situation, where Congress is told things it doesn't want to hear and then told to keep the guilty secret. "Power without responsibility," said British Prime Minister Stanley Baldwin, "is the prerogative of the harlot throughout the ages." Responsibility without power is something more than mere prostitution.

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CALVIN TRILLIN

Why, I have been asked, does *The Nation* choose to publish only every other week in July and August even though the oppression of the downtrodden goes on every day of the year? The question was raised this summer in a rather strongly worded letter that a reader named Sheldon A. Schryer apparently meant for the entire *Nation* staff but sent to me—perhaps because he remembered my name from the time a year or so ago when he chastised me for allowing the torment of the Scottsboro Boys to slip from my memory.

"Enemies of the people!" Schryer began. "Lackeys of the Bosses! Pisherkehs! Or have I missed something? Could it be that the unionbusting racists who run Southern textile mills treat their workers with respect and brotherhood on alternate weeks in July? Are the political prisoners who rot in the jails of fascist dictators in South America permitted during the summer months to alternate a week of freedom with every week in the torture chambers? Or, to put it another way, is it possible for editors and writers to fight oppression one week and spend the next week in beach houses sipping gin and tonics (made with limes picked by nonunion braceros)? Is it possible that political commitment can be turned off and on, like alternate-side-of-the-street parking regulations?"

I thought Schryer had raised some interesting questions about *Nation* policy, but I was not, of course, the person to answer them. At *The Nation*, I am simply a part-time columnist—doing what the people who attempt to organize those Southern textile mills would refer to as "piecework." I don't want to appear to be distancing myself from an institution while it's under intense criticism, but I might point out that I don't even have an office at *The Nation*—any more than the bent but seemingly indefatigable immigrants who did piecework in their Lower East Side tenements maintained offices in, say, the Triangle Shirtwaist Company. Schryer's letter, in fact, reached me in Nova Scotia, where my family and I have spent our summers ever since I discovered that Canada is a country in which the New Hampshire primary is almost never mentioned.

Confident that *The Nation*'s editor, one Victor S. Navasky, could provide some persuasive answers to Schryer's questions, I telephoned the *Nation* office in New York. The telephone rang for a very long time. Finally, it was answered by a *Nation* employee I'll call Emile Zola.

"What's the latest on government surveillance, oil-company profiteering and the oppression of the poor, Zola?" I said, to make conversation. "I don't get much news up here."

"I don't know," Zola said. "We don't publish this week. I'm only in here because it's air-conditioned."

I asked to speak to Victor S. Navasky. "It's about policy," I added.

"He isn't here," Zola said. "He's in England."

England? "I guess he's exposing dreadful working conditions in the Yorkshire textile industry," I said.

"I don't think so," Zola said. "He got a grant to go over there and talk to his friends, although I don't think it was worded quite like that. He didn't say anything about going to Yorkshire, and he asked me about a couple of restaurants in Hampstead."

I figured the publisher would be in a position to discuss policy, so I asked for Hamilton Fish 3rd. Don't ask me why a left-wing magazine has a publisher with two last names and a number. I don't even have an office there.

"He isn't here either," Zola said. "He's been gone most of the summer—to Third World countries."

"Which Third World country is he in?"

"Mexico," Zola said.

"You mean going to Acapulco is visiting a Third World country?" I asked, noticing as I said it that I had adopted Schryer's interrogatory style.

"I don't know if Acapulco is where he is," Zola said. "He didn't leave an address."

Was it possible that Hamilton Fish 3rd was drinking margaritas in Zihuatanejo or Cuernavaca and calling it a visit to the Third World? Could it be that he was a traitor to *this* class, too? Was he some sort of double agent?

Not having any idea how to reach Hamilton Fish 3rd, I decided to wait for Navasky's return from England. I phoned around the middle of August, and, after a number of rings, Zola answered again.

"You missed him," Zola said, before I could ask if South America was still rife with dictators and the arms race continued to threaten mankind. "He was here for a day or two, but now he's on Martha's Vineyard."

Martha's Vineyard! I figured that Navasky was back at work. Martha's Vineyard, the summer home of a lot of left-wing intellectuals, is also known as the single most difficult place on the Atlantic coast for a non-property-owner to get to the beach—a place where renowned writers of a progressive bent use their gifts to compose No Trespassing signs. I could imagine Navasky in the thick of the story—interviewing disgruntled day-trippers who had been driven off the beach at gunpoint by civil liberties lawyers and contributors to *The New York Review of Books*, burrowing in courthouse records to find instances of scallop fishermen being snookered out of their land by neo-Keynesian economists.

"I suppose he's up there exposing the hypocrisy of the Landed Left," I said to Zola.

"Not unless he's trying to embarrass them by showing up at all their cocktail parties," Zola said.

Well, that left no question about what I should write to Schryer. "Apologist!" I began. "Protector of Backsliders! Moderate! Or could it be that South American dictators take the entire summer off? Is warmongering seasonal? Is apartheid in force only during the academic year? Could it be that from June through August it is not important to remember the torment of the Scottsboro Boys?"

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ARTICLES.

A TALK WITH RUDOLF BAHRO

The Greens' Whole-Earth Politics

STEVE WASSERMAN

When the Green Party was founded in West Germany nearly four years ago, it polled 1.5 percent of the vote in the national elections. Today it commands the support of nearly 4 million people over the age of 16—that is to say, about 8 percent of the population. Last year the Greens, with 30,000 members, became Germany's third party, surpassing the Liberals in Hamburg's elections, and they now hold the balance of power. This March, the Greens garnered 5.6 percent of the national vote, catapulting them into the Bundestag, where they have twenty-seven deputies.

What follows is a conversation with Rudolf Bahro, a member of the Greens' eleven-member executive committee. Born in 1935, Bahro was a member of the East German Communist Party until 1977, when he was arrested and charged with being a West German spy after the publication in the West of his book The Alternative to Eastern Europe. *In it, Bahro sought to sketch a strategy for the transformation of Eastern Europe into genuinely democratic socialist governments. An international campaign helped secure his release from East Germany in 1979, two years after he had begun serving an eight-year sentence for "espionage." He now lives in Bremen, West Germany. —S. W.*

STEVE WASSERMAN: It's the impression in the United States that Germany and Europe face a "long, hot autumn" of demonstrations protesting the deployment of Pershing 2 and cruise missiles. Is this a correct impression?

RUDOLF BAHRO: I personally am not in favor of this expression, which is a slogan uniting the police and the militants of the peace movement. This expression is used in order to avoid thinking about the larger nuclear holocaust that can occur at any moment.

The peace movement in Germany is about much more than a "hot autumn." It is not a game between stone-throwing protesters and baton-wielding police. If it was only that, the movement could be dismissed as unimportant.

What's at stake this autumn is our hope to convince the West German population that we must take every measure to avoid the immediate danger which will be established if the American missiles are deployed. We are against the whole system of deterrence. But deploying these missiles undermines even the presumptions of deterrence, since they will simply attract Russian ones in response. Protection by American strategic missiles creates an opportunity for a theater war in Europe. Should such a catastrophe occur, these missiles will not defend anything. It is not defense. It is suicide.

We of the Green Party (and it is important to remember that we are only a part of the peace movement) are going to concentrate on nonviolent actions. The main point is not to fight the police but to symbolize the greater danger that faces us in order to gain more support from the general population. Only a nonviolent strategy will win this support. Our notions of civil disobedience owe a debt to the thought of Henry Thoreau.

WASSERMAN: It is also the impression of many in the United States that the Greens are overwhelmingly anti-American, that their view of the intentions and capabilities of the Soviet Union is extraordinarily naïve for people who live directly in the shadow of Soviet might.

BAHRO: I think you are right about the Greens if you believe that there is one good military bloc and one evil military bloc. This is a simple-minded picture whose origins can be found in the cold war. But this picture is really mad.

Both superpowers are today, in different ways, declining. After World War II, of course, they dominated Europe totally. Now Western Europe is reconstructed. And, on the other hand, the Soviet Union has really lost the minds and hearts of Eastern Europeans. To be sure, Moscow continues to dominate them militarily.

The peace movement is only on the surface anti-American. It is opposed to the existing power structure—the system of deterrence and mutual destruction and retaliation—of both the West and East. When I lived in East Germany, I urged in my books and articles that steps be taken toward unilateral disarmament in the East. If you live in the East, your first responsibility is to resist your own dragon. If you live in the West, you fight against the Western dragon. The missiles that will bring Europe closer to destruction are, at this moment, American missiles. Their deployment will attract Soviet ones.

WASSERMAN: How does this peace movement relate to your call in your writings for an "ecological humanism," a goal which seems to be shared by other members of the Greens? And what, precisely, is meant by this term?

BAHRO: The Greens did not develop as a peace movement solely concerned with disarmament. They had—and have—a much broader critique of society. It is an error to think of the Greens as a single-issue movement.

We should distinguish between the peace and ecological movements. The Greens were from the beginning an ecological movement. The original protests were against civil nuclear power stations, because if they blow up the effect would be the same as the dropping of an atomic bomb.

On the one hand, we face the threat of a breakdown between the superpower blocs and a sudden nuclear holocaust, and, on the other hand, we face a slow suicide by industrial pollution. The activists from the late 1960s have children

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now, and so the question of the future itself has grown in importance. The atomic bomb is only the most developed symbol of an industrial system that is now out of control. It is a system that contains a self-destructive tendency, whether it calls itself capitalism or communism.

It was only in 1979, when the NATO decision was made to deploy the missiles, that the Green Party turned its attention to the question of peace and disarmament. But none of the previous attitudes that animated the movement—and which do so still—have been forgotten.

WASSERMAN: In your writings you speak of Western civilization's "impulse to obliteration," "the disease of militarism" and "the culture of domination" as rooted in an industrial system "based on principles of expansion and explosion." What do you mean?

BAHRO: I will take the risk of starting in the primal mud. The origin of the special pattern of European civilization—and America is only an advanced appendage—lies in the Indo-European tribes. Homer captures it well in the *Iliad*. European man starts as a conqueror of cities. The basic pattern in these aggressive tribes is the competition between heroes. The principle of always being the first, of excelling over others, is exalted. There is a direct link between this ethos and the pioneer and frontier spirit of those who settled the western lands of the United States.

After the Greeks, of course, came the Romans, and they started their empire in the same way. Carthage is the great example. And then from the synthesis that emerged out of the Christian culture the Romans had built up, together with the German invasion, came the expansion into the European continent. And then the crusaders. Since the Industrial Revolution, these very ancient impulses toward conquering, possessing and expanding have been made more dangerous by our ability to invent technologies and weapons whose destructive capabilities are far greater than ever before.

WASSERMAN: Theodor Adorno once wrote that if history has any dialectic at all, it is one that links the invention of the slingshot to the atomic bomb. Between the two, he observed, there is a unity; it is an absolute of suffering.

BAHRO: Exactly. That is the bottom line. European man—which includes North Americans—can legitimately be called *homo conquistador.*

WASSERMAN: Isn't that just a fancy way of saying what Susan Sontag wrote—and later publicly repudiated—in her controversial assertion of the late 1960s, that the "white race is the cancer of humanity"?

BAHRO: Maybe it is good to say it that simply.

WASSERMAN: Mayakovsky once remarked, "After electricity, I lost interest in nature." Is the real achievement of the Greens their acknowledgment that the unfettered faith in the future made possible by the rise of science is no more?

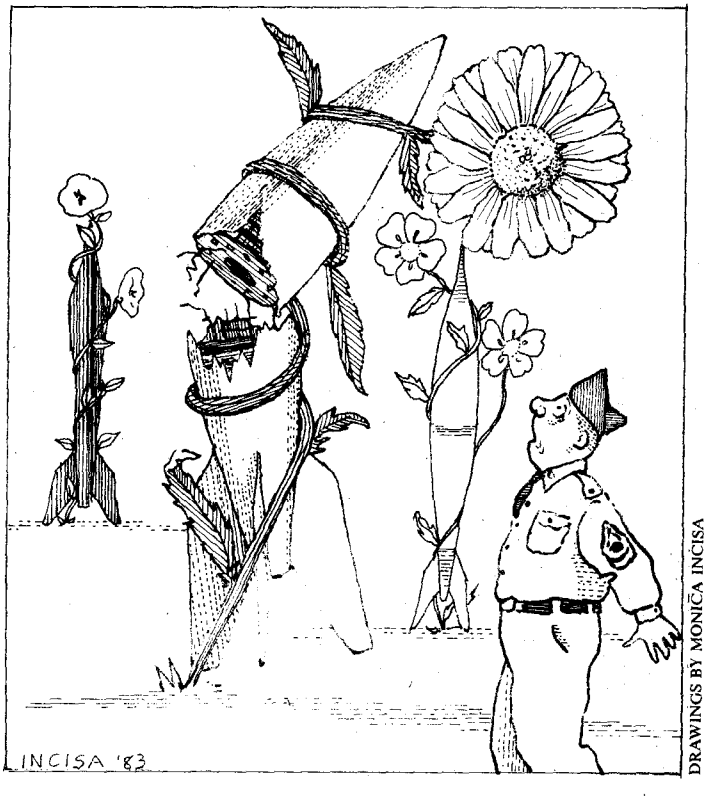
BAHRO: If you look at the great paintings of the Renaissance—for example, da Vinci's "Mona Lisa"—you will see that man is in the center, very large, and nature is banished to the background, and is very small. If you look at Chinese pictures rooted in the conception of Taoism, you will see a landscape dotted with people. It isn't man as ants, but rather man in harmony with nature.

In Europe today the feeling grows that the disjunction between man and nature, between the arrogance of man and the intentions of God, increasingly jeopardizes the planet itself and threatens the possibility of the future. We have begun to run into the limits of industrialization. Homer also contains the idea of the Nemesis.

WASSERMAN: These doubts and misgivings are, of course, not new. Thomas Carlyle regretfully dubbed the nineteenth century the "Age of Machinery," and Emerson, after a ten-month visit to England, wrote: "Mines, forges, mills, breweries, railroads, steam-pump, steam-plough, drill of regiments, drill of police, rule of court, and shop-rule have operated to give a mechanical regularity to all the habit and action of men. A terrible machine has possessed itself of the ground, the air, the men and women, and hardly even thought is free." Do you agree?

BAHRO: Yes. I studied Marxist philosophy in East Germany. Marx was very much in favor of progress. But at the same time I read Holderlin, and you can find very similar passages to those of Emerson. He concluded that the division of labor had split man from himself; only fragments remained. Rousseau too made similar observations.

This is exactly what happened during the Industrial Revolution. The only difference is that in those times unconquered territories remained to be explored and possessed, ravaged and exploited. Americans had not yet pushed west to the Pacific Ocean, and the Russians were



DRAWINGS BY MONICA INCISA

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then even farther away from the western Pacific.

But now, today, nearly every portion of the globe has been settled. And it is a serious question whether even the great Amazon jungle will survive by the end of this century. There is no more natural periphery, except perhaps space itself. There are no more peoples left either to enslave or to exploit.

I believe that most of the early critics of industrialism were right. This belief is growing steadily among the peoples of Europe, and I believe it will become overwhelming. This will happen in Europe first because our continent is much more densely populated and more developed. Thus the dangers are more apparent.

WASSERMAN: Isn't your criticism, which seems so radical—your repudiation of urban technocracy, exaltation of the apocalyptic, fealty to agrarian or pastoral virtues—merely a mask for a more traditional conservatism with deep roots in German Romanticism?

BAHRO: I was always very much in favor of a special wing of that German Romanticism, the wing that includes Holderlin, Fichte, Jean Paul, Beethoven. Politically speaking, this is the left wing of the whole classic and romantic tradition of Germany. As to conservatism, well, we really have to conserve something. As to radicalism, I would say I am radical in the same way the original Gospels were radical.

WASSERMAN: So do you consider your thinking now to have more in common with the precepts of Christianity than with the dogma of Marxism?

BAHRO: My thinking has evolved in a way that has not required a patricide. Formally, it is true that Marxism is finished. But there is no necessity to break with it. For me, Marx's hope for the emancipation of man still obtains, but I believe that the notions of "proletariat" and "dictatorship of the proletariat" are now hollow and without meaning. Today, I look more to Thomas Merton for inspiration.

WASSERMAN: So despite your conviction that Western man's proclivity for greed and violence is anchored as far back as the ancient Greeks, and despite several thousand years of evidence that things usually go from bad to worse, you nevertheless continue to believe in the perfectibility of human nature.

BAHRO: Discussion of how to create a new man is always the wrong approach. Man has the capacity for both good and evil. He can become Christ, or he can become the Grand Inquisitor. The possibility of the jump from greed to goodness exists. The problem is to create a system that encourages the best in man and discourages the worst.

WASSERMAN: In your writings you urge "the abolition of at least half the work now performed in the industrialized countries," which, you say, "must take unquestioned precedence over the demand for full employment." How does that go over in a Germany now wracked with its highest unemployment since 1931?

BAHRO: Yes, that's a real conflict even inside our party. Peter and Andrew were fishermen, and Christ asked them to drop their work and to follow Him. If you look at the workers' immediate interests, it is obvious that they need jobs. But if you look at West Germany and realize that 11 percent of its total area is already under concrete and that this process is continuing, it will end in Germany itself being paved over unless people begin to refuse to participate in this industrial process.

The very definition of economic strength and health must be reconsidered. Immediate interests cannot be allowed to blind us to our long-term fate. The forests are really dying in Germany because of acid rain. The rivers are more and more polluted, as is the air we breathe. At some point, the measures to save the world we live in, and on which we depend for life itself, will be too late.

People live under the illusion that the holocaust can be postponed if only we don't contemplate its eventuality. And certainly the life span of any single man is not great enough to encompass it. But this is a selfish way of thinking: it exalts the present over the future. It cares nothing for posterity. What does it gain a worker to make enough money to pay for his house and put food on his table when at any moment his very survival is threatened by the prospect of instant nuclear annihilation or eventual ecological obliteration?

WASSERMAN: Your Marxism certainly is revisionist. It appears as if predictions of the imminent collapse of the capitalist system have been replaced in your mind by the expectation of certain ecological catastrophe. Aren't both prospects equally dubious? After all, the end of the world has been predicted since the beginning of time and has yet to occur. I wonder if your criticism of industrialism isn't simply the guilty complaint of one fortunate enough to have been born in the developed metropolis and to have enjoyed the privileged life made possible by the very industrialism you are at such pains to condemn?

BAHRO: I wouldn't deny that. But the model of development of both the West and the East does not work. It does not work for us, and it will not work for the Third World. The reproduction of this industrial system will end in the destruction of the hopes of impoverished millions everywhere, for the growth and consumption of the developed world cannot be extended in their present form to the rest of humanity without irrevocably pillaging and damaging the earth itself.

We need another model of development, a new culture of growth. We are traveling now—all of us, the developed world and the Third World alike—in a tunnel that has no exit. We should use our privileged position to help solve a problem which we helped to create. It is not a problem that should be exported, shunted onto the peoples of the Third World, leaving them alone to deal with its disastrous consequences.

We have the difficult task of trying to change the way people think about themselves and their relation to the world. Industrialization—if it continues to proceed at its

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present rate—will truly threaten us with extinction in another 200 years. We must try to imagine ways of decentralizing and deindustrializing our overheated economies. That, really, is the most fundamental project of the Green Party. □

THE LIBEL DILEMMA

The Case for a Right of Reply

ARYEH NEIER

"Sticks and stones can break my bones," begins the familiar children's saying, but few children believe that names will never hurt them, and no adult I know would endorse that proposition. Reputation matters. We care about what others say about us; we mind a great deal when they call us foul names or otherwise besmirch us. Indeed, there are times when we would prefer a broken bone to a damaged reputation.

The harm caused by libel and slander is a serious matter, and it is only natural that the victim should seek redress. So important is reputation in our society that the victim has a right to seek restitution in the courts. Present libel law, however, provides satisfaction only sporadically. Moreover, libel suits pose a threat to free speech and the dissemination of information. And when the victim of libelous statements fails to sue, it is widely perceived as an admission of the truth of what was written about him.

Redress is almost never available when the government defames a private citizen. Libel suits against the government were barred by the Supreme Court's 1976 ruling in *Paul v. Davis*. Edward Davis, a newspaper photographer in Louisville, Kentucky, discovered that the Louisville Police Department had included his name and photograph in a flyer identifying "known" and "active" shoplifters. Although Davis had been arrested for shoplifting at a local store, the police later admitted that they had made a mistake and dropped the charges.

Justice William Rehnquist, writing for the majority, dismissed Davis's suit against the Louisville Police Department, holding that damage to "reputation alone, apart from more tangible interests such as employment," is not sufficient grounds for a suit. For Davis to have standing to sue, he must show he had been deprived of liberty or property by the defamation, and that he had not done. Rehnquist said that *Wisconsin v. Constantineau*, a 1970 Supreme Court ruling in which a woman sued the state government for defaming her, was not applicable. Her name had been posted in bars and liquor stores in accordance with a Wisconsin law forbidding the sale of alcohol to chronic drinkers. The Court held that Constantineau could sue because she had been denied a legal right—the right to buy a drink. Because of "that alteration of legal status," Rehnquist wrote, "combined with the injury resulting from the defamation," redress should be made available to her. Those criteria, he said, did not apply to Davis.

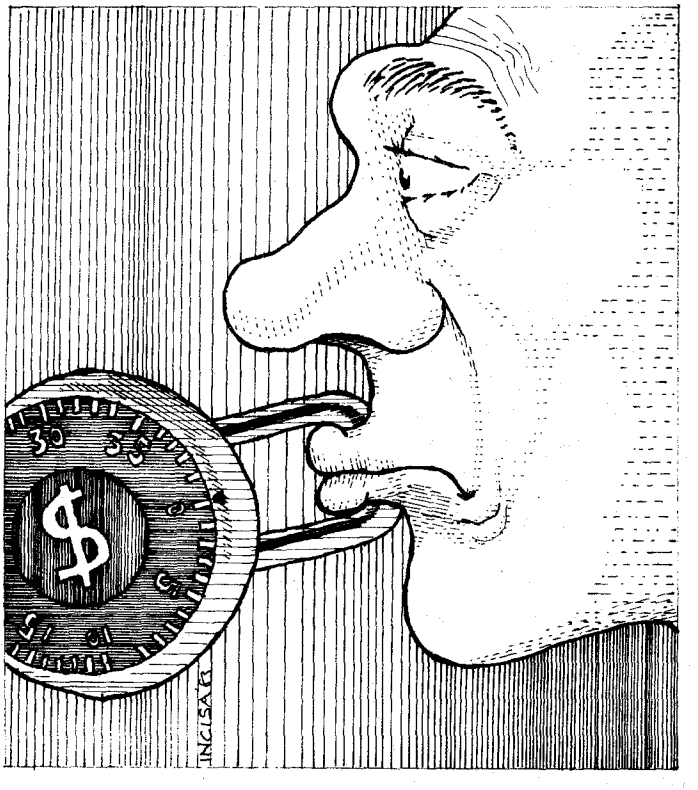
Thus, as the law now stands, a person who has been defamed by the government cannot obtain restitution unless he was also deprived of some tangible right, such as the right to buy a drink.

The Supreme Court takes a completely different attitude toward libel by private citizens. It has ruled that even when the defamation was unintentional, the victim may collect. The Court has, however, made it difficult for a "public figure" to sue successfully. "Actual malice" must be proved—that is, the person must show that the defamatory statement was made "with knowledge that it was false or with reckless disregard of whether it was false or not."

The requirement that public figures prove actual malice was enunciated in 1964 in *New York Times v. Sullivan*, in which the Court recognized that the First Amendment limits libel actions. Since then, the Court has engaged in a good deal of backing and filling about what sorts of people are public figures. But the principle that the right to sue for libel is limited by the First Amendment has been firmly established.

Still, there are several anomalies in current libel law that limit freedom of speech. The first is the virtual exemption of the government from suits for libeling citizens. This means that a private citizen, whose utterances are protected by the First Amendment, may be sued, while the government, which enjoys only such powers and privileges as are specifically delegated to it, may defame with impunity.

The second anomaly is the imposition of punitive dam-



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ages. By definition, such damages involve more than redress of a wrong; they are intended to punish the guilty party. While it is true that in 1974 the Supreme Court, in *Gertz v. Welch*, held that punitive damages may be awarded only when actual malice has been proved, the ruling still allows speech to be punished; and, whatever a speaker's state of mind, that would seem to be a violation of the First Amendment.

Third, under present libel doctrine, courts are empowered to inquire into the thought processes of editors. That right derives from a 1979 Supreme Court decision, *Herbert v. Lando*, in which the Court held that a public figure seeking to prove malice should be able to compel testimony as to the state of mind of the editors and reporters who worked on the allegedly libelous story. Despite the obvious incompatibility of such inquiries with the spirit of the First Amendment, they are a logical outgrowth of the Court's ruling in *Sullivan*.

Because of the threat of punitive damages and courtroom interrogations about editorial decision-making, libel suits are among the most significant limitations on freedom of expression in the United States. Reportedly, CBS was thrown into a panic last September when Gen. William Westmoreland filed a $120 million libel suit against it because of charges made against him on a *CBS Reports* documentary. It is rumored that the network later killed several stories being prepared for the program, fearing that they too might provoke lawsuits. NBC was plunged into a state of consternation when singer Wayne Newton claimed he had been defamed in a news report which implied that he had Mafia connections. *The Washington Post* was shocked when a jury awarded $2.05 million in punitive damages to William Tavoulareas, president of Mobil Oil, who sued the paper because of a story alleging he had arranged for his son to profit from company shipping contracts. (The verdict was set aside by the Federal judge who presided at the trial, but it may be restored on appeal.) *Time* faces a lawsuit by former Israeli Defense Minister Ariel Sharon, who claims that the magazine sullied his good name by publishing a report that he urged the Gemayel family to avenge the murder of Lebanese President-elect Bashir Gemayel. Governor William Janklow of South Dakota brought a $10 million libel suit against *Newsweek* because it published an article containing American Indian activist Dennis Banks's allegation that Janklow raped an Indian girl in 1969—even though the article stated that "federal officials found insufficient evidence to prosecute" him. (Janklow is also suing Peter Matthiessen, author of *In the Spirit of Crazy Horse*, in which the same allegation is discussed, and his publisher, Viking Press.)

So popular have libel suits become that even a publishing house has taken up the cudgel of libel, despite the important stake the industry has in First Amendment protections. This March, Simon & Schuster tried to suppress some unflattering references to it in a book that another publisher was bringing out. A lawyer representing Simon & Schuster wrote to Beacon Press demanding that a passage in Ben Bagdikian's *Media Monopoly* be deleted prior to publication. The objectionable passage reported that Simon & Schuster had refused to publish a book entitled *Corporate Murders* on the ground that it "would make corporations look bad." Simon & Schuster's letter concluded:

> We therefore demand that any such defamatory passages be deleted from the book before its release. Furthermore, we demand the opportunity to inspect the manuscript regarding any other references to Simon & Schuster or any Simon & Schuster officers or employees. Unless we receive prompt satisfaction on this matter, we will take legal action.

Beacon was not intimidated and published the book with the protested passage. Simon & Schuster did not sue.

The threat posed by libel suits to freedom of the press is a growing one, and yet—and here is perhaps the greatest anomaly of all—these suits only fitfully provide a remedy for people whose reputations have been blackened. There are many reasons why that is so. In the first place, a libel suit may give further publicity to the defamation, greatly magnifying the harm to the victim's reputation. Also, these suits are costly and time-consuming. They bring unwanted exposure of the plaintiff's private life in courtroom discovery proceedings. Even if the testimony is not damaging to the plaintiff, it may involve matters he would have preferred to keep private.

For public figures, the burden of proving actual malice is an onerous one. As a result, even when the information that was published or broadcast was false and defamatory, the trial jury may decide that the plaintiff's lawyers did not meet that burden and may render a verdict of not guilty, lending credence to the libel in the minds of the general public.

Journalists whose stories frequently skirt the line of defamation—and I have in mind not only those who work for tabloid scandal sheets but also "inside" columnists and investigative reporters—are fully aware of the difficulties the subjects of their stories will face should they decide to sue. They know they can publish much false and defamatory material without being sued. Indeed, far from being limited by the libel laws, journalists' power to injure people's reputations may be enhanced because their victims generally fail to take them to court. Unchallenged assertions retain the illusion of accuracy; after all, the public thinks, the target of a story would have sued if the information was false. Most people are simply not aware of the reasons victims do not bring suits, some of which I have described.

Changes in the libel laws are clearly necessary, both to reduce the threat they pose to freedom of expression and to expand their protection of people's reputations. Reconciling those two objectives is not easy, and there is no ideal solution. But one remedy that seems better than all the others is to give libel victims a right to reply. That idea gained some adherents in the 1960s but was discarded after the Supreme Court's 1974 decision in *Miami Herald Publishing Company v. Tornillo*.

The case involved a Florida law that required newspapers to provide a "right to reply" whenever they published a story that "assails the personal character of any candidate

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for nomination or for election . . . or charges said candidate with malfeasance or misfeasance in office, or otherwise attacks his official record." The law stipulated that a paper must "publish free of cost any reply [the candidate] may make thereto in as conspicuous a place and in the same kind of type," and must make available as much space as it devoted to the original story. The Court held unanimously that the Florida law was unconstitutional because it intruded "into the function of editors" to determine "the choice of material to go into a newspaper."

The *Tornillo* case did not deal with defamation, as some of the Justices pointed out in concurring opinions. Even so, the decision has discouraged serious consideration of substituting a right to reply for money damages.* Yet the right-to-reply remedy is consistent with a fundamental tenet of free speech doctrine—the appropriate remedy for bad speech is more speech.

Here is how the procedure might work. A person who believes he has been defamed would demand the right to reply at the expense of the person or institution responsible for the alleged defamation and in a way that would give his version comparable exposure to the original story. If the party charged with libel refuses, the person with a complaint could sue, and if he proved defamation in court, the defendant would be ordered to provide the opportunity for reply. The defendant would also have to pay all the plaintiff's legal fees. A public figure would not have to prove actual malice; he need show only that he had been defamed. Money damages would be awarded only if a defendant refused to give the plaintiff a chance to reply. Some procedure would be needed to expedite the disposition of lawsuits; if long delays occur for which the plaintiff is not to blame, a court might order that he be given additional replies as compensation.

Such a scheme would encourage publishers and broadcasters to publish or air replies if they think they would lose in court, enabling them to avoid adverse publicity and the costs of litigation. Eliminating the requirement that a plaintiff prove malice would make it far easier to bring a lawsuit. If a suit succeeds, the cost to the defendant would not be ruinous, since he wouldn't have to pay damages. As a result, the media would be less fearful of the financial consequences of lawsuits and would not be deterred from publishing or broadcasting important, controversial stories.

There are several obvious objections to this idea. Among them: as in *Tornillo*, a right of reply would intrude on the prerogatives of editors to decide what to publish. Also, it would rarely undo the damage done by defamation, and it could not be enforced in a timely enough way to counteract, say, a smear against a candidate on election eve. Finally, it would be less of a deterrent than the prospect of a multi-million-dollar libel suit.

Some of those objections (undoing damage and timeliness) can be answered by pointing out that the present sys-

*An exception to this neglect is Franklyn S. Haiman's fine book *Speech and Law in a Free Society* (University of Chicago Press). Haiman proposes a somewhat different version of a right to reply than is considered here.

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tem has the same shortcomings. Others, such as interference with editorial decision-making, seem unanswerable, except, perhaps, by invoking A.J. Liebling's famous comment that freedom of the press is a luxury enjoyed by those who own one. It should be acknowledged that a right to reply would have less deterrent value, but that must be accepted as the price of freeing the press to take on controversial issues.

Civil libertarians are increasingly urging that all remedies for defamation be abolished on the ground that libel suits are incompatible with the First Amendment. I have long leaned in that direction, but find myself unable to accept the proposition that people whose reputations are damaged by false and defamatory information have no recourse. The Supreme Court was wrong in *Paul v. Davis*: reputation is an essential element of both liberty and property. Accordingly, it should be protected against the government and private citizens. Of the various ways to accomplish that, a right to reply seems to comport best with the spirit of the First Amendment. □

COMMENT

Abolish Libel—The Only Answer

MARTIN GARBUS

A "right of reply" is not a satisfactory solution to the problem posed by libel suits. It would merely provide a public forum for endless charges and countercharges that would shed little light on the facts of a dispute. Substantial parts of *The New York Times* and the *CBS Evening News* would become boring and unread (or unwatched), filled with statements by people claiming they had been libeled in some news story. Moreover, Aryeh Neier fails to take into account the differences among the media. How would a book publisher, for example, provide a right of reply?

Neier's suggestion that guilty parties who fail to provide a right of reply should pay plaintiffs' legal costs would not greatly ease their financial burden. The legal fees in suits such as those brought by Gen. William Westmoreland against CBS, by Lieut. Col. Anthony Herbert against CBS and by William Tavoulareas against *The Washington Post* generally exceed $500,000—a stiff price to pay for what could have been a nonmalicious mistake.

I believe that the First Amendment prohibits individuals who hold public office, who are involved in public matters or who are public figures from filing libel suits. The press and the people should be free to criticize such individuals with impunity. The threat of libel suits puts a heavy pressure on the media to censor themselves; that is a too often overlooked cost of the present system of permitting such suits by public officials.

Neier's priorities may differ from mine. The most important consideration is not the reputation of individuals. It is the people's right to read or hear a variety of ideas, without censorship. Any restrictions on that right strike at the heart of the Constitution. Freedom of speech cannot be safeguarded by the malice rule, which depends on a jury's evaluation of a defendant's state of mind. Limitations on criticism of public officials hark back to the doctrine that the governed may not criticize their governors.

At present, there are hundreds of libel suits pending in the courts. A right of reply would not stem the tide. In the suit by Carol Burnett against the *National Enquirer*, the jury felt that the injury to the actress's reputation caused by the paper's false allegation that she had been drunk in public called for $1.6 million in restitution, even though the *Enquirer* had printed a correction and an apology. The California appellate court, in a 2-to-1 decision, reduced that amount to $200,000, though the dissenting judge argued that the jury's award should not be questioned. The court ruled that the apology had not been printed in as prominent a place as the original story.

Other megaverdicts have worked or are now working their way up the appellate ladder. In the libel suit against *Penthouse* filed by Kim Pring, the trial judge reduced the $26.5 million jury award to $12.5 million. An appeals court overturned the decision, and the Supreme Court has declined to review. In early July, a Philadelphia district attorney who sued *The Philadelphia Inquirer* for libel was awarded $4.5 million by a jury. Last year the Algon Telegraph Printing Company in Illinois was driven into bankruptcy by a libel award of $9.2 million. In New York City recently, a jury ordered a $40 million judgment in a right-of-privacy suit, a related area of law where judgments are of precedential value.

But extravagant jury awards are only the tip of the iceberg. The real problems are the rising cost of out-of-court settlements, which are increasing at an extraordinary rate, and the high legal fees of defendants.

Twenty years of defending (and prosecuting) libel suits and reviewing manuscripts before publication for potentially libelous statements have taught me that while determining "truth" may seem easy to a court, as a practical matter it is often very difficult. A company that publishes thousands of books a year or a television news show that presents dozens of stories daily cannot determine the "truth" of most of the information it deals with.

Those who oppose my position argue that public debate is already protected because of the Supreme Court's decision in *New York Times v. Sullivan*. For a public figure to recover for libel he must prove malice—a considerable task. Malice is an elusive, abstract concept, and the Supreme Court's definition in *Sullivan* is of little help. In the absence of a clear definition, malicious conduct is whatever a jury or an appellate court says it is. The requirement that malice be proved does not protect the right to criticize public figures, and certainly does not measure up to the safeguards embodied in the First Amendment. Jurors who are sympathetic

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to a plaintiff and hostile to the media can easily misapply the "reckless disregard for the truth" standard and find malice. Whatever a judge charges a jury about "malice," "truth," "good motives," "justifiable ends" and "compensatory damages" may be irrelevant to its decision. There is no stopping a runaway jury. In the case of *Tavoulareas v. Washington Post*, the trial judge set aside the jury's verdict. But that will happen less as high-money judgment barriers are broken through in the appellate courts. Judges reluctant to overturn jury verdicts will rely on appellate decisions to affirm the high awards of anti-press juries.

Neier also suggests that awards for punitive damages be abolished. But the threat to free speech posed by oppressive libel judgments would not be removed merely by eliminating such awards. Juries could still award compensatory damages. Plaintiffs can wring hundreds of thousands of dollars from jurors, if not millions, by telling them how upset the libel made them. Even if a plaintiff did not suffer financially as a result of being defamed, a jury can rule that because of the mental anguish and humiliation he has suffered, and because of the damage to his reputation, he is entitled to millions of dollars. Once a jury has decided that published material is false, it generally regards the defendant as guilty of libel, even though at worst only negligence was involved.

The increase in libel suits in the past few years has resulted in self-censorship by the media. Self-censorship often is insidious. Corporations frequently evaluate the lawyers who handle their libel problems by their ability to avoid litigation. Internal memorandums introduced in court in a recent libel suit against *Newsweek* showed that the chief criterion by which the magazine's general counsel was judged was her success in avoiding such suits. Company lawyers and others charged with reviewing material for libelous statements are encouraged by management to take a conservative, businesslike approach, which in practice often means eliminating anything controversial.

Nor would a right of reply reduce the harm caused by recent Supreme Court decisions that permit courts to probe into the editorial process. An author or newscaster can now be held liable not only for what he wrote or said but also for what he thought. The plaintiff in a libel suit has the right to peruse early drafts of stories not used in the final version; to look at interviews that ended up on the cutting-room floor; to listen to all tape recordings. He also has the right to interrogate the author or newscaster about why he chose one word rather than another. The smart publisher, prudent lawyer or careful author is therefore well advised to avoid all controversial information.

As Justice Hugo Black wrote in his opinion in the *Sullivan* case, "This Nation, I suspect, can live in peace without libel suits based on public discussion of public affairs and public officials. But I doubt that a country can live in freedom where its people can be made to suffer physically or financially for criticizing their government, its actions or its officials." Representative democracy ceases to exist the moment public functionaries are in any way absolved from their responsibilities to their constituents; and that happens whenever a constituent is restrained from speaking, writing or publishing his opinions about any public measure or about the conduct of those who may execute it. "An unconditional right to say what one pleases about public affairs is what I consider to be the minimum guarantee of the First Amendment," Black wrote. Because of these and other dangers, on October 9, 1982, after decades of debate, the American Civil Liberties Union's board of directors adopted a policy opposing libel suits brought by public figures.

As Neier points out, legislators, judges and other public officials are now cloaked with absolute immunity against liability for defamatory statements made in the discharge of their offices. Why should the press and private citizens have less immunity? Finally, if criticism of a public figure can be found to be libelous, no citizen can safely utter anything but praise about the government or its officials. It may well be that a defamed official without access to the media is vulnerable to those who defame him. But that is one of the prices that must be paid for freedom of speech. □

Immigration

(*Continued From Front Cover*)

Senator Alan Simpson of Wyoming, co-author of the immigration bill, has warned:

> In the past several years a large majority of new legal immigrants joining American citizens and permanent residents in the United States has come from Latin America, Asia and the Caribbean area. With respect to illegal immigrants, it is estimated that Mexico is the source of at least 50 to 60 percent of the total, other parts of Latin America 10 to 15 percent, and the Caribbean area 5 to 10 percent. . . . If immigration continues at a high level, yet a substantial portion of these new persons and their descendants do not assimilate into the society, they have the potential to create in America a measure of the same social, political and economic problems from which they have chosen to depart. Furthermore, if language and cultural separatism rise above a certain level, the unity and political stability of the nation will—in time—be seriously diminished.

Allegedly to preserve the cultural integrity of this nation of immigrants from the consequences of a brown, black and yellow invasion, Senator Simpson and Representative Romano Mazzoli of Kentucky introduced a bill that would make it harder for refugees to receive political asylum and would tighten controls on immigration in a way calculated to encourage discriminatory hiring practices and union-busting by U.S. companies. The bill represents what National Immigration Coalition director Bert Corona calls "supply-side economics applied to the field of immigration." Moreover, as a means of stemming the influx, the bill would be ineffective.

That is because the proposed legislation does not address the peculiarities of the traffic across a border that was sparsely populated and largely undefined until the first part

Geoffrey Rips is an associate editor of The Texas Observer.

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of this century. It does not take into account the reasons people leave their homelands for the United States. Most important, the Simpson-Mazzoli bill ignores the extent to which U.S. economic and political policies help create the patterns of immigration to the United States.

Any examination of immigration policy must consider both the "push" and the "pull" factors that cause people to migrate. In conventional analyses, these social forces are usually described as the pull of political freedom or economic opportunities and the push of repression or poverty. Only rarely is the government's role in manipulating those factors considered.

The McCarran-Walter Immigration and Nationality Act of 1952, for example, served as an important complement to cold war foreign policy. It was sponsored in the House by the chairman of the Un-American Activities Committee and contained an "ideological exclusion" clause and a "parole provision," which allowed the attorney general to admit or exclude any individual or group seeking political asylum.

The parole provision was first used to admit 34,000 Hungarian refugees in 1956. In the late 1950s and early 1960s, 650,000 Cubans were granted asylum under the provision and were given $994 million in immediate resettlement assistance by Congress. More than 130,000 South Vietnamese were permitted to settle in the United States during a two-year period in the mid-1970s, prior to the arrival of the Vietnamese "boat people." Most of them were members of the middle or upper class who had supported the Saigon government. Chileans who sought to enter the United States after Gen. Augusto Pinochet took power, in 1973, however, were not given blanket parole status; they were admitted on an individual basis. Edwin Ledbetter, speaking for the State Department in 1975, said, "This is really the first time since World War II we've made an effort to resettle people from a rightist regime. The determinations on security matters are more time-consuming." Secretary of State Henry Kissinger agreed that year to admit 400 selected Chilean refugees; two years later only 19 of them and their families were allowed to enter the United States.

Not only has the government been ideologically selective in who it allows to invade America's shores; it has also triggered large-scale migrations by its interventions in the affairs of other countries. Vietnam is an obvious example. U.S. support for the Duvalier regime in Haiti is another; through economic aid we have contributed to its longevity and the attendant repression. The United States is, therefore, indirectly responsible for the boatloads of Haitians fleeing to Florida.

The U.S. hand is also evident in the emigration of large numbers of people from Central America to this country and Canada. Among those are Salvadorans fleeing the ravages of a war abetted by U.S. foreign aid. From 1980 to 1982, the United States gave $398 million in military aid and $257 million in economic aid to the Salvadoran government. Salvadorans are not emigrating because of their government's failure to subdue an armed opposition but because Washington is prolonging the war by shoring up a right-wing government, which refuses to allow its moderate and

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left-wing opponents to participate in elections and which perpetuates social inequities.

While the relationship between U.S. foreign and economic policy and the number of people seeking asylum here is obvious, the role the government plays in stimulating the flow of immigrant labor is no less significant. The history of Mexican labor in the southwestern United States is a history of the manipulation of these workers by U.S. agribusiness interests, aided by immigration legislation. To understand that history, we must begin at the nearly 2,000-mile border between Mexico and the United States. Throughout the nineteenth century, neither country made any effort to impede the flow of people back and forth across it, even after the present border was drawn up in 1848 in the Treaty of Guadalupe Hidalgo, ending the Mexican-American War. The flow was regulated by supply and demand, and the border's significance was largely a matter for cartographers. As Ernesto Galarzo, a farm-labor historian, wrote in *Merchants of Labor, the Mexican Bracero Story*, the Treaty of Guadalupe Hidalgo left "the toilers on one side of the border, the capital and best land on the other. This mistake immigration undertook to correct."

The demand for Mexican laborers rose markedly during World War I, and it was satisfied by poor Mexicans driven to seek work in the United States because the revolution of 1910 had left their country's economy in shambles. During the agricultural boom of the 1920s, the growers called for more Mexican workers, and the rate of border-crossings accelerated. Many of these immigrants found jobs in the fields owned by California's new agribusinesses.

In 1924, Congress passed the National Origins Act, which marked the beginning of a comprehensive Federal policy to control immigration through quotas. The act severely curtailed immigration from southern and Eastern Europe but set no quotas for immigrants from the countries of the Western hemisphere, who were needed to ease the resulting shortage of labor. That same year the Border Patrol was established to supervise the traffic of immigrants from below the Rio Grande.

In the 1930s, there was a backlash against Mexican workers because of widespread unemployment among Americans. The result was a crackdown on Mexican immigrant labor. Secretary of Labor William Doak declared, "One way to provide work for unemployed Americans is to oust any alien holding a job and to deport him." His words were followed by well-publicized raids by the Border Patrol and state and local police on farms employing Mexican workers. Many states started repatriation programs, under which several thousand Mexicans were shipped back to their homeland. Although those measures resulted in the deportation of only a small percentage of the Mexican workers in this country, the number of immigrants slowed to a trickle because of the scarcity of jobs. In 1934, President Lázaro Cárdenas implemented a long-promised agrarian reform program, which provided land to many Mexicans who might otherwise have sought work in the United States.

The growers in Southern California supported the government's efforts to deport Mexicans not only because they objected to their presence on already swollen relief rolls but also because they feared labor unrest. Seventy-five percent of the workers who participated in a series of strikes in 1933 by the Cannery and Agricultural Workers Industrial Union were from Mexico. Mexicans struck the melon growers of the Imperial Valley in 1928 and again in 1930, when 5,000 of them walked off the job. Local authorities arrested the organizers and deported them. The growers came to realize that while deportations did not significantly shrink the pool of Mexican labor, the threat of deportation did reduce protests about wages and working conditions and it made labor organizing more difficult.

The next great demand for Mexican labor came during World War II. The draft, along with the booming war economy, created a labor shortage and drove up farm workers' wages to levels that approached those in industry. Because the labor shortage was so acute, the Mexican government was able to win concessions protecting its citizens in the United States by working out a general migrant labor agreement, known as the bracero program. Under the terms of the agreement, Mexican workers received a guaranteed minimum wage and did not have to pay for their transportation. They could be used only in areas where there were labor shortages—not to depress wages or to break strikes. The Farm Security Administration acted as a contractor for the workers and enforced the terms of the program until it was transferred to the less stringent War Food Administration in 1943, following concerted lobbying by the growers.

In 1947 the agreement expired, but the growers convinced the two governments to extend the program under terms that allowed them to act as their own contractors. While that enabled them to get around some of the requirements of the program, many growers still felt constrained, and in-

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creasingly began to rely on undocumented workers, many of whom had first worked in the United States as braceros. A large number of those workers, who had been shipped home when their contracts expired, returned to the areas of their bracero employment, but this time as undocumented workers.

By 1951, the number of undocumented workers arrested by immigration police approached 500,000 (as compared with some 200,000 contract laborers admitted legally under the bracero program), and U.S. authorities attempted to establish greater control over the immigrant workers. This was accomplished in part by giving thousands of undocumented workers bracero contracts, usually with the same employers for whom they had been working illegally. In 1954 more than 300,000 Mexican workers were signed to contracts under the program. That same year the U.S. government initiated "Operation Wetback." One I.N.S. official claimed that "aliens who entered the United States illegally are responsible for 75 percent of all crimes committed in some Southern California and Texas counties. . . . Even more serious is the possibility that among the 'wetbacks' who seek employment there may be those whose entry would be detrimental to our national security." This operation, carried out in the name of the cold war, resulted in the deportation of more than 1 million undocumented laborers and produced a decline in the number of people apprehended by the I.N.S. while attempting to cross the border. Many workers joined the bracero program in Mexico rather than risk entering the United States illegally. In addition, by reducing the minimum contract period for braceros and by bypassing processing procedures set up by the Mexican government, the I.N.S. encouraged growers in the United States to comply with the system. As a result, the number of contract laborers rose to well over 400,000 during the late 1950s. The bracero program was terminated in 1964 because of opposition to mounting worker exploitation and increased lobbying by organized labor, and because Johnson Administration officials no longer saw the program as the solution to the problems caused by illegal immigration. The number of undocumented workers from Mexico apprehended in this country shot up to 100,000 in 1965, 350,000 in 1970 and more than 1 million in 1978.

While ostensibly set up to regulate the immigration of Mexicans to the United States, the bracero program had actually stimulated it. Through recruitment campaigns in Mexico during World War II, the program revived a migration process that had virtually ceased. And the work force mobilized by the program remained in this country illegally following its demise. Most of the employers in the United States who had relied on braceros for cheap labor continued to rely on these same workers, though their legal status had been terminated.

As the foregoing indicates, U.S. immigration policy has been, in the main, designed to benefit agriculture and industry in this country. It has provided them with a pool of cheap labor and has enabled the government to expel undesirable immigrants. Immigration policy created a pull that is partly responsible for the large immigrant work force in the United States today. The government's effort to curtail further immigration in 1964 by ending the bracero program was singularly unsuccessful, particularly in comparison with similar efforts in the early 1930s. That failure stemmed not from a diminished U.S. commitment to enforcing restrictive immigration policies but from the economic situation in Mexico. The termination of the bracero program coincided with the so-called Green Revolution in Mexico—a government project that financed irrigation systems for large corporate farms and encouraged an economy based on the international trade of commodities at the expense of local self-sufficiency. As a result, the operators of many small "rain-fed" farms were driven out of business, and small landholders and workers on communal farms, or *ejidos*, were forced to seek seasonal wage labor. By 1974, almost 5 million acres of rain-fed farmland had been abandoned. In the 1960s, the Mexican government began subsidizing urban industrial development. The products of the new industries in the cities replaced goods made by village artisans. That caused the decline of small local industries, an important source of income in rural areas, and set off a massive rural-to-urban migration. Many of the migrants left the land for the cities; when they could not find jobs in the cities, they crossed the border into the United States. Others were forced to supplement family incomes from subsistence farms and sought seasonal farm work in the United States. As Mexican economist Lourdes Arizpe points out, "All industrial nations recruit the bulk of their industrial work force from surplus agricultural labor." Arizpe calls rural-to-urban migration "the geographical expression of an economic process."

U.S. corporate interests gave added impetus to the forces in Mexico encouraging emigration. From 1950 to 1966, direct U.S. investment in Mexico increased from $286 million to almost $1.2 billion. Some jobs were created along the border by free-trade zones, which attracted American investment, and by the *maquiladores*, or runaway shops, designed to employ Mexican workers drawn to the border cities. In many cases these factories lured even more people from the hinterlands, who swelled the ranks of the urban unemployed. U.S. firms like Zenith, Motorola, Memorex, Burroughs and North American Rockwell opened plants in Mexico after receiving major concessions from the Mexican government. These concessions allowed them to exploit cheap Mexican labor and exempted them from certain export duties. This exacerbated balance of trade problems plaguing the Mexican economy.

Another example of the way U.S. policy has encouraged migration was pointed out by economist Michael Conroy, who wrote in *Socioeconomic Incentives for Migration from Mexico to the U.S.*:

> The most significant determinant of substantially increased incentives for temporary migration from Mexico to the United States in recent years has been the devaluation of the peso relative to the dollar. . . . Policies of the World Bank and the International Monetary Fund, such as those imposed in 1976 for "stabilization" of the Mexican economy, are likely to contribute indirectly to the incentive for migration by slowing job creation while contributing directly through pressures for devaluation of the peso. If . . . the U.S.

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government backed and even encouraged such measures, U.S. policy has been significantly responsible for the increase in the incentive for temporary migration.

For the benefit of American investors abroad and American agribusiness and industry at home, a process was set in motion that has deposited the hordes on our doorstep.

The Immigration Reform and Control Act of 1983 is little more than an attempt to control those hordes. It would make it more difficult to gain political asylum and it would use the policing powers of the government to serve the needs of U.S. employers.

The xenophobic tenor of the campaign for the Simpson-Mazzoli legislation can be attributed to the desire of the bill's supporters to make undocumented laborers and political refugees scapegoats for the recent recession. But the charge that such workers take jobs away from Americans is open to dispute. In the recent recession, the areas of highest unemployment—the Midwest and the Northeast—did not suffer the largest influx of undocumented workers. Since the late 1970s, the Sun Belt has had the lowest rate of unemployment and has seen the largest influx of illegal immigrants.

Undocumented workers are frequently accused of putting a strain on social services. The truth is that they support a welfare system whose benefits they rarely see. The average stay in the United States for an undocumented worker from Mexico is two or three years, after which he returns to his family; thus he is not in this country long enough to collect many of the benefits for which his taxes have been deducted. According to studies conducted in the late 1970s by Jorge Bustamante of the Colegio de Mexico and by the U.S. Department of Labor, while taxes and Social Security were withheld from the paychecks of about 75 percent of undocumented workers, only 1.5 percent of all such individuals received food stamps, only 4 percent got unemployment compensation and only 4.5 percent had ever used public health services. Undocumented workers further subsidize the U.S. economy through the payment of sales tax. And the low wages most of them receive can be considered a form of subsidization of business.

Even if undocumented workers are not a drain on the economy, some organizations backing Simpson-Mazzoli, including the N.A.A.C.P., claim they depress wages and take jobs from American citizens and permanent residents. No doubt that is true on the fringes of the economy. But the answer, says Jim Harrington, an attorney for the Texas Civil Liberties Union, is not to "retaliate against people because they are hungry but to organize." The United Farm Workers of America, which opposes the Simpson-Mazzoli bill, has been working with labor groups in Mexico to organize farm workers.

The mechanisms proposed in the Simpson-Mazzoli bill for regulating immigrant labor include sanctions against employers, the "legalization" of various groups of undocumented workers, the implementation of a guest-worker program and the issuing of identification cards to all legal alien workers. The bill's supporters claim that sanctions would prevent employers from turning undocumented workers over to the I.N.S. after they have finished a job rather than paying them. The Mexican American Legal Defense and Educational Fund (MALDEF) argues that the penalties for hiring undocumented workers would not be a sufficient deterrent to prevent the practice. They may do little more than give employers an excuse to discriminate against members of certain ethnic groups even if they are permanent residents or citizens.

While the bill does not protect the right of undocumented workers to organize, it specifically includes unions that act as labor contractors among those against whom sanctions would apply. Unions place thousands of their members in jobs each year through hiring halls, and workers may join regardless of their legal status. The sanction provision would compel these unions to enforce the immigration laws, which would drive undocumented workers to nonunion contractors whose marginal operations leave them largely unaccountable to the government. This of course would eliminate the possibility of organizing a significant sector of the labor pool, which is one reason the American Federation of State, County and Municipal Employees, the International Longshoremen and Warehousemen's Union and the United Electrical Workers have spoken out against the Simpson-Mazzoli package. The A.F.L.-C.I.O., while calling for immigration reform, does not support the legislation passed by the Senate this summer and recommended by the House Judiciary Committee. Instead it

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favors the Hawkins-Miller amendment, which was proposed in the House Labor and Education Committee and which provides some protection for guest workers and a review mechanism for legalization decisions made by the I.N.S.

The "legalization" program proposed by the bill is purportedly intended to bring undocumented workers "out of the shadow," but instead it would legitimize a new subclass of workers. Under Mazzoli's H.R. 1510, all undocumented aliens who entered the country before 1982 would be eligible for amnesty and permanent resident status, while Simpson's S. 529 imposes a two-tiered system, with 1980 and 1982 as the cutoff years. Both proposals place the legalized workers in a legal limbo. Federal income tax and Social Security payments would be withheld from workers' paychecks, but they would not receive the full benefits. Legalized aliens would not be entitled to participate in federally funded assistance programs for a period of four years, although they would be entitled to emergency aid. According to MALDEF, the bill's imprecision in spelling out the social benefits and protections for which legalized workers are eligible presents an opportunity for exploitation. MALDEF also decries the fact that the bill does not specifically address the question of whether the families of legalized aliens would be allowed to enter the country and whether the workers would fall under the jurisdiction of the National Labor Relations Board, as they do under current law. If 1980 is used as the cutoff for determining which aliens receive permanent resident status, more than half of the undocumented workers in the United States today would not qualify, since, as mentioned, most stay no longer than two or three years. Many of those would be eligible for temporary resident status. However, under both versions of the bill all undocumented workers must be screened for eligibility by immigration officials, whose criteria will include the ideological exclusion clause of the McCarran-Walter Act.

The ID system is intended to keep track of all alien workers, who would be registered with the I.N.S. and whose records would be maintained on a computerized index. Guest workers, whose stay in the United States would be specifically limited by the requirements of a particular job, would be drawn from lists of available workers compiled by the Mexican government. The U.S. government would contract for the guest workers with employers, and they would not be covered by any union contracts in force where they work. Neither bill proposes mechanisms to safeguard the rights of guest workers. Moreover, the Panetta amendment to the bill, which has been passed by the House Agriculture Committee, does away with the requirement that employers certify the unavailability of American workers before applying for guest workers to harvest perishable crops. The guest-worker plan is little more than a government-supervised program that would enable employers to hire cheap labor and free them from having to make contributions to Social Security and unemployment compensation funds.

The Simpson-Mazzoli guest-worker plan is essentially an expansion of the current H-2 program, instituted in 1952 to fill temporary jobs with foreign workers if unemployed Americans are not available. Under that program wage standards are set by the U.S. Department of Labor, and employers can control which workers are hired. In 1976, H-2 melon pickers in Presidio, Texas, struck, demanding the pay the government had guaranteed. The strike was eventually settled, but the following year none of the strikers were rehired. When the U.F.W. began to organize farm laborers in northern Mexico before they came to the United States, growers under the H-2 program started to fly in workers from southern Mexico and Guatemala.

Political refugees fare no better than immigrant workers under the Simpson-Mazzoli bill. The bill calls for the summary deportation of aliens who enter without documents unless they assert some "reasonable basis" for legal entry or apply for asylum within fourteen days after the issuance of an order to show cause why they should not be deported. An alien who misses the deadline will not be allowed to apply for political asylum unless there is a change in his home government that might affect his eligibility. The bill reduces the time for appealing a deportation order from six months to thirty days.

Those provisions are designed to streamline the procedures for handling political asylum requests. Since most refugees will not be able to ascertain their rights and the steps they must take to receive asylum within the first two weeks of entry (when most arrests occur), much less find a lawyer who can prepare the necessary papers within that time, the political asylum provisions of the bill amount to little more than a mechanism to allow the summary deportation of large numbers of aliens. This would relieve the crowded conditions at detention centers in Florida, Texas and California, but it is not in keeping with the right to due process afforded all who come under the jurisdiction of the U.S. government, and it violates human rights conventions to which the United States is a signatory. While the House bill provides for judicial review of decisions on asylum, exclusion and deportation cases, the original Senate bill did not. Before it passed the full Senate, Edward Kennedy attached an amendment providing for such review. Those seeking judicial review would, of course, need a certain amount of knowledge about U.S. courts as well as money to pay for counsel.

After the Senate passed S. 529, it was expected that Mazzoli's bill would move through the House in a similar fashion. But several committees took an interest in it, which slowed its progress, as has President Reagan's recent courtship of Hispanic voters. In addition, talk of economic recovery has made the legislation seem less urgent to many members of Congress. It is now scheduled for consideration by the House Rules Committee on October 18.

Even if the bill is passed, it cannot solve the problems it claims to address. Real immigration reform will come only through an understanding of the economic and political factors that create mass migrations. As long as the United States is willing to exploit cheap immigrant labor and tolerate the economic imbalance that exists between the First World and the Third World, as long as it supplies arms to other nations and exacerbates conflict in other parts of the world, it will always have an "immigration problem." □

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BOOKS & THE ARTS.

Revering Motherhood, Not Mom

LAURA SHAPIRO

OUR RIGHT TO CHOOSE: Toward a New Ethic of Abortion. *By Beverly Wildung Harrison. Beacon Press. 334 pp. $18.95.*

THE RIGHT TO LIFERS: Who They Are, How They Operate, Where They Get Their Money. *By Connie Paige. Summit. 286 pp. $14.95.*

THE LAW GIVETH: Legal Aspects of the Abortion Controversy. *By Barbara Milbauer in collaboration with Bert N. Obrentz. Atheneum. 320 pp. $12.95.*

Ten years ago, as an openly biased reporter for Boston's *Real Paper*, I visited three of the most active abortion clinics in Manhattan to see what went on and to interview some of the doctors, counselors and patients. That bias, I should add, was and is thoroughly in favor of a woman's right to choose. Nonetheless, even I was startled by the novelty of a point that was emphasized more than once by the clinics' counselors. In the lives of many of the women, I was told, especially the younger ones, to obtain a safe, legal abortion was far more than just the solution to a problem: it represented the outcome of a decision to look responsibly at themselves and their actions, to move beyond a socially ingrained passivity and to take a step thoughtfully and independently, perhaps for the first time ever. In the context of their lives as women and, potentially, child raisers, choosing abortion at that time was not only right but positive.

Every pro-choice activist is aware that securing the legal availability of abortion is only part of a more important project: to lessen the need for abortions. That goal seems more distant than ever these days, calling as it does for an extraordinary public commitment to prenatal and maternal health, day care, part-time and flexible employment, contraception research and sex education—none of those exactly banner demands of the right-to-life movement. Ten years after the Supreme Court tried to settle things in *Roe v. Wade*, the abortion issue is still with us, bogged down in the relentless terminology originally set by the Roman Catholic Church and a few politicians: the fetus must be protected from the moment of conception, and any interference is murder. One reason the country hasn't yet moved beyond the cloud of bills, laws, lawsuits, injunctions and test cases surrounding abortion is the success of the right-to-lifers in keeping the fate of the fetus at the center of the debate. Those clinic counselors a decade ago, however, recognized that in real life, as opposed to the ecclesiastical ideal, the decision to have an abortion is not simply private and convenient; it's far from arbitrary, and it contains its own moral value. The decision takes place in a mesh of personal and social factors, including the woman's understanding of what lies ahead for her child, and the effect of the pregnancy on her family as well as on herself. Committed though I was to the cause, at the time I was conducting the interviews I hardly knew what to do with that particular perception. Most feminists were rigorously defending the right to choose on grounds dictated in effect by the opposition: that its illegality leads to coat hangers and back-alley butchers; that women have a right to control their own bodies; that the concept of fetal "personhood" is a religious one and as such cannot be set into law. All good arguments, and still pertinent; but perhaps it's time to shift the grounds of the debate, to reframe the arguments to acknowledge experience and history and to take on the moral mantle appropriated by the fetal protectionists.

Living as we do with an Administration so freely and viciously antifemale that Interior Secretary James Watt can liken the pro-choice movement to Nazism, this shift may be not only timely but vital. Watt, after all, is rewriting the past when he makes that particular analogy, for it was Hitler who conferred upon the state the right to administer abortions to non-Aryans and forbid them to Aryans. As theologian Beverly Wildung Harrison shows in *Our Right to Choose*, her profound, courageous analysis of the morality of choosing abortion, maintaining such a glib claim on history is only one of the ways in which the antiabortionists have succeeded in framing the debate.

Women, Harrison reminds us, have always understood the necessity of abortion—the act itself has been around ever since they figured out where the baby comes from—and only recently have either church or state branded it murder. In a stirring and scrupulous examination of the fetal mania that has possessed the church in recent decades, Harrison shows how selectively many historians and theologians have offered proof of an overwhelming Christian tradition of opposition to abortion based on the sanctity of the fetus. In truth, the "tradition" is a modern construction based on fragmentary texts, often taken out of context and not necessarily representative of the most influential religious leadership of the past. For an act now drenched in the most monstrous criminality, abortion received scanty attention until the late nineteenth century. Along with contraception and nonmarital sex, abortion was considered primarily a sin of sexual wantonness; while it was condemned by any Christian theologian who happened to mention it, the terminology tended to be rhetorical rather than analytical, and little moral reasoning was applied to the concept of protecting fetal life per se. Even during the centuries-long debate on the exact moment of "ensoulment," it was the question of fixing human accountability for sin that was at issue, not the morality of abortion, although that debate has since been yanked into the history of fetal sanctity.

Harrison reads the denunciations of abortion in Christian texts as antifemale, not pro-fetus: "My contention is that antiabortion proponents in their 'historical research' chiefly have tapped the sometimes hysterical antisexual bias leveled especially against any woman who did not confine her sexuality to procreative functionalism." Tertullian, she notes, the third-century theologian whose attitude toward abortion was spelled out more clearly than that of most churchmen and for that reason has been widely considered definitive in Christian teaching, did place an explicit value on the embryo, which he believed came from the man, with the woman providing no more than a nine-month cradle for it. In his dazed view of

Laura Shapiro's articles and reviews have appeared in Mother Jones, The Atlantic, Rolling Stone *and other publications.*

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generation, abortion was murder all right; even worse, it was insurrection.

Today, of course, the right-to-life argument is spelled out explicitly, but it's no more convincing as a moral stance than it was when Tertullian wrestled with it. As many pro-choice advocates have observed, the most ardent defenders of the fetus tend to lose interest as soon as it emerges from the womb needing adequate food, lodging, care and education. Their insistence, moreover, that the pregnant woman has no rights worth considering except for the rather narrow privilege of refusing certain suicide by childbirth (a right the Catholic Church itself does not recognize) is hardly a model of compassion or consistency. What motivates the antiabortion movement seems to be something more punitive and vengeful than the respect for human life claimed by proponents of bills like the "human life amendment," which would force a 12-year-old impregnated by her father to bear his child. In *The Right to Lifers*, a detailed overview of the antiabortion spectrum from mad-dog extremists to Feminists for Life, Connie Paige gives her subjects ample room to speak for themselves; but for all the earnest conviction they voice, their crusade has been far more successful as an attack on women than as a defense of the unborn. Abortions continue unabated; all that changes is the degree to which women and their families suffer in order to obtain them.

Paige sums up the right-to-life drive as one of the "quintessentially American populist movements," and it's true in a way: revering motherhood while reviling Mother is certainly as American as apple pie. As she describes it, the movement emerged from small towns, local parishes and ordinary households all over the country, with a contagious, sentimental vigor that quickly ballooned into power politics. By the mid-1970s one group, the National Right to Life Committee, was claiming a nonsectarian membership of 12 million—a claim that reflected its political style more accurately than its numbers. "I made that up," former staff member Judie Brown told Paige cheerfully. "It was a total lie."

Joining forces with right-wing religious and political operators to help push Reagan into office and tilt a few liberals out of Congress in 1980, the antiabortionists gleefully predicted a sure reversal of the Supreme Court decision as soon as the winners moved into Washington. But the many branches of the right-to-life movement had become factions, and their internal disagreements over goals and tactics hampered them in Congress and alienated them from others in the New Right coalition. When the Democrats began filtering back after the 1982 elections, the right-to-lifers proved unable to maintain their mild hold on Congress. Still another blow came this past June, when the Supreme Court affirmed *Roe v. Wade*, striking down several state laws designed to make abortions more cumbersome and expensive to obtain.

The major political accomplishment of the right-to-life movement, then, has been the Hyde amendment, which was upheld by the Supreme Court in 1980 and which prevents the Federal government from funding abortions except when the life of the mother is in danger. The Hyde amendment has not stopped many abortions, according to *The Law Giveth*, a lucid and comprehensive survey of the major court cases and legal issues that surround the abortion debate. An estimated 94 percent of the needy women who were denied Medicaid funds under the amendment were able to get legal abortions anyway, often by dipping into the family's budget for food or clothing. The rest had babies or found cheap, illegal abortions. It's hard to understand on what terms that constitutes a victory for life, especially as Barbara Milbauer and Bert N. Obrentz analyze the amendment's political and legal history.

Right-to-lifers were able to eliminate from the Hyde amendment exceptions originally provided in cases of rape, incest and even "long-lasting physical health damage to the mother," so that any pregnancy except one that indisputably promises to kill the woman must be endured—but only if the woman is poor. The moral vacuum at the heart of the amendment is plain. In order to uphold it, the Supreme Court fell into double talk, claiming by a vote of 5 to 4 that the amendment "places no governmental obstacle in the path of a woman who chooses to terminate her pregnancy, but rather . . . encourages alternative activity deemed in the public interest." For the first time, Milbauer and Obrentz argue, the Court "told pregnant women they must do for the fetus what Rhonda Copelon [a pro-choice attorney] in her argument had said no American had ever been forced to do: that was to involuntarily sacrifice their health and possibly their life for another's well-being."

Liberals and compromise-seekers of all sorts are still trying to arrive at a principled, nonoppressive version of fetal protectionism, but for reasons made clear in these three books, nobody has been able to hammer out such a position. The fact is, there is no middle ground in the abortion controversy, principled or not. Either the woman decides or someone decides for her.

Morally, legally, politically, medically—in every aspect of the abortion issue, the crucial factor is the element of choice. No policy can be just if it denies a woman that—the right to assess her life and the lives dependent on her. Even in *Roe v. Wade*, however, which stands as the nation's closest equivalent to a policy on abortion, the Supreme Court shied away from admitting that right. While it allowed her to choose during the first trimester of pregnancy,

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it allowed the state to intervene on various grounds during the second and third trimesters. "Once again," Beverly Harrison comments, "when women's role as childbearer is at stake, reasons of state strongly prevail." The authors of *The Law Giveth* point out that, unlike any other medical procedure, abortion carries an explicit legal requirement that the patient make her decision "with the consent of the doctor." The physician's participation in her decision is not included for health reasons—abortion is one of the safest operations a person can have. The reason women cannot be trusted with the full moral weight of the abortion decision is unquestionably that they are women, and their reproductive power has always made men squirm. Tertullian's notion of male-centered conception wouldn't hold up today, but the Supreme Court has been able to codify a remarkably apt twentieth-century equivalent.

These books demonstrate that the single-minded pursuit of fetal citizenship has been an effective rallying point for the right-to-life movement, while doing nothing to halt the demand for abortions. If the members of the movement are really interested in preventing abortion, they might do better to join up with feminists and agitate for a society in which no woman has to learn the value of autonomy and self-respect at the door of an abortion clinic. □

But Will It Sell?

PAUL BERMAN

CLASS STRUGGLE IS THE NAME OF THE GAME: True Confessions of a Marxist Businessman. *By Bertell Ollman. William Morrow. 288 pp. $12.95.*

There's a bizarre story in Bertell Ollman's *Class Struggle Is the Name of the Game*. Joe McCarthy died while Ollman was a student at the University of Wisconsin, and Ollman went to the funeral as a reporter for a student magazine. In the confusion at the cemetery, he lost his ride home, stuck out his thumb to hitchhike, and was picked up immediately—by the hearse. Thus it was Joe McCarthy who rode into that cemetery, and Bertell Ollman who rode out, on his way to a career as Marxist extraordinaire—author of two scholarly tomes, editor of two others and inventor of the game Class Struggle, Marxism's answer to Monopoly.

Class Struggle Is the Name of the Game recounts his experience as game manufacturer, with occasional anecdotes drawn from other phases of his life, and quite a lot of it is funny. There's even some serious discussion of humor and its place in radical politics. Soon after he marketed his famous game, Ollman visited his old mentor at Oxford, Isaiah Berlin, and took up the question of witty subversion. Berlin allowed that humor is a very good subversive weapon. He mentioned Voltaire and said Voltaire undermined the church more effectively than its serious critics did. But that was because the church was rigid and pompous, which made it vulnerable to the well-aimed joke. What about systems whose ruling elites take themselves less seriously, such as our own system? Berlin wondered whether humor might be less devastating.

Ollman's business memoirs show that our own system copes with radical humor tolerably well. The stiffest resistance his game encountered was from the left. A strike broke out in a Long Island branch of Brentano's during the period when Class Struggle was in vogue, and the strikers asked Ollman and his colleagues to boycott the store. No other radical businesspeople were asked to take such a step, and since boycotting one store meant boycotting the chain, Ollman's group sensibly declined. But the incident made for bad press among the very people who, he felt, should have applauded him for popularizing Marx's ideas. Ollman still hasn't forgiven Barbara Ehrenreich for an article that suggested he sold out the working class.

The toy-and-game industry and the business world greeted Ollman with raised eyebrows. Of course, some stores wouldn't carry a "Marxist" product. Game salesmen and distributors kept advising him to change the name of Class Struggle to something more "American," like Class Change. But they handled his game anyway. A distribution group called Do Something for Jesus worried that Ollman might be the

Paul Berman's essay on the Rosenberg case was in the September issue of Vanity Fair.

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Antichrist—rumors do get around—yet nonetheless agreed to do business. At Citibank, where he went for a loan, bank officers stared incredulously at the little squares on his game board that say things like "General Strike." But they lent the money. The mainstream press by and large found Ollman delightful; *The New York Times* wrote an editorial that took pleasure in the very idea of a Marxist businessman. In Europe, too, Class Struggle was thought to be very witty. Ollman supplies a photograph of Helmut Kohl holding a German version of the game—it's called *Klassenkampf*—and laughing away.

Cash flow was Ollman's enemy, not intolerance—cash flow plus the difficulty of borrowing sufficient amounts of money and all the other troubles small businesses run into. Ollman came away quite sympathetic to small business: he thinks the petite bourgeoisie needs socialism for its own good. He also came away mad. He felt bruised and cheated on every side and exacts a carefully nasty revenge. Hollywood smoothies trick him into thinking he can sell the rights to his story and afterward still get his phone calls answered; when he finds there's no such thing as a returned phone call, he goes for the eyeballs. He describes the producer Jay Presson Allen toadying at the Russian Tea Room to a Warner Brothers executive thirty years her junior. He dismisses the screenwriter Roger Simon as if Simon had committed a terrible crime (when all he'd done was write a comedy about a Marxist game manufacturer who falls in love with the toys buyer at Bloomingdale's . . .). Even his parents become the butt of jokes. "America is the greatest country in the world," his father tells him. "Stop criticizing it so much, or they'll lock you up." A sour tone has crept into the book.

Ollman's worst problem lately concerns his career as university professor, and this also figures in his memoir. He was offered a high post at the University of Maryland, but when the ruling junta of that state learned their appointee was anticapitalist, the offer was withdrawn. This was of course an infringement of academic freedom, and Ollman quite properly sued. He lost, but the case is on appeal. He was also Red-baited by Evans and Novak in their newspaper column, and is suing them too. The man is full of fighting spirit.

Ollman worries that his radical adventures might somehow lead to reactionary results, as radical adventures sometimes do. He cites the history of Monopoly, which, it turns out, was invented by a Single Taxer as an anticapitalist game. ("Monopoly is designed to show the evil resulting from the institution of private property.") Only later did it evolve into the paean to avarice everyone knows and loves today.

Class Struggle is probably safe, but Ollman's libel suit against Evans and Novak may yet go the reactionary route. The suit was heard several weeks ago by a Federal appeals court, and though the court's decision came too late for inclusion in the book, it's worth mentioning here. The judges sent the suit back for trial on the ground that expression of opinion, which was previously exempt from libel suits, ought not to be exempt if it contains wrong facts. This is grim news for journalists, who are already reeling from Mobil Oil chief William Tavoulareas's suit against *The Washington Post* and General Westmoreland's suit against CBS.

The mere possibility of getting sued for libel intimidates newspapers; critical journalism becomes more difficult to write. One can understand why Ollman wants his day in court, but I wish he had considered what a bad thing it is to encourage government to make rulings about journalism. Big libel suits like his threaten the First Amendment. Besides, his own Marxism should show that libel law has a class bias. Most libel suits will be brought by the rich and powerful to silence their critics; the rest of us, therefore, should prefer the law to stay narrow and settlements to remain low. Ollman's suit is broadening the law and may result in a high settlement.

But he does have a gift for the ridiculous and has certainly written an amusing book. At one point, he confesses, his business fortunes sank so low he contemplated an unprincipled act of self-publicity to generate sales: running for President. His lawyers advised that making a conspicuous fool of himself would damage his academic freedom suit, so he dropped the idea. But what a thought this was. By running for President in order to drum up sales, Ollman could have corrupted capitalism, democracy and socialism in a single swoop.

Memo to Warner Brothers: Left-wing professor invents witty game to advance Marxism. Game veers toward bankruptcy. Professor runs for President in order to improve sales. *Suddenly polls show he's doing surprisingly well. . . .* □

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Sweet Savage Romance

ANN SNITOW

ENDLESS RAPTURE: Rape, Romance, and the Female Imagination. *By Helen Hazen. Charles Scribner's Sons. 184 pp. $12.95.*

The best that can be said about this awful book, which made headlines recently when former Reagan speechwriter Aram Bakshian praised it in *National Review*, is that a blind hen sometimes finds a pea. Snide and self-satisfied, Helen Hazen's criticism of feminist theory is easy to dismiss, but here and there, between one half-baked idea and another, she hits on something.

Hazen argues that feminists have been shifty or self-deluded or just plain silly when analyzing female fantasies of rape and romance. Rape fantasy, she persuasively shows, is *part* of romance, and romance is an important category of the contemporary female imagination, a presence not only in popular women's fiction but, covertly, in feminist fiction too. Feminists who write off romance as female masochism are only begging the question of what it means to women, and why; feminists who think rape cannot be a pleasurable fantasy for any but the neurotic or the deeply oppressed misunderstand what rape can symbolize in the realm of the imagination.

Hazen loves romance and she posits that women read romance novels by the millions—including those with rape scenes sprinkled throughout—because the stories are sexually charged female myths of heroic conquest. The menacing hero may rape the heroine but she triumphs over him by converting his cruel, impersonal impulse into love. Feminist fiction, too, has its threatening yet exciting male marauders, Hazen insists, with the difference that the exemplary feminist plot cannot end in a happy consummation between rapist and victim. To Hazen, this is nothing but a loss. Feminist theory dictates that the cold, withholding man cannot save, that he is woman's oppressor. So, says Hazen, in the feminist version of the old romance quest the heroine is ruined: hungry for love, she cannot eat, and must trudge away into an independence that is often disappointing. Endings aside, Hazen describes romance readers and feminists as sharing the same fantasy: men galvanize a thrilling feeling of outrage in both groups.

This headlong train of thought raises some interesting questions. Why do men and women have different fantasies? Why are male and female expectations in love so often such a poor fit? Feminists have been asking those questions for some time, and one comes to Hazen expecting that she will enter the conversation. But her incuriosity is dazzling. Women's fantasies are the way they are because women are women, because "intelligent beings have a need to ritualize the impulses that their cells, nerve endings, and hormones so disturbingly thrust upon them." In other words, since women have babies, the inward, passive, male-centered fantasy embodied in romance fits the eternal female situation perfectly: "The ritual provides a structure for the urges."

Men, too, ritualize their urges which, according to Hazen, lead them to a sort of onanistic heroism—the male fantasies of *Star Wars*, of westerns and, too, of pornography. (One wonders what rituals men and women used before these gender-specific popular forms. Might the particulars of the rituals change the experience of the urges? Massively ignorant of the relevant work by feminist historians, Hazen never asks this kind of question.) Hazen advises women to put a good face on whatever lack of complementarity they find between male and female wishes. Why nag against necessity? The Erma Bombeck of literary criticism, she considers female hysteria and longing potentially delicious and safely domestic.

The root issue here—which Hazen refuses to take seriously and about which feminists constantly speculate and disagree—is the malleability of gender. Are male and female two kingdoms with such different histories and material conditions that no matter what temporary détente they may reach, they must remain essentially foreign to each other? Or is the boundary between them a constantly shifting, sometimes dissolving line—always redrawn, to be sure, but perhaps for changing historical and psychic reasons?

Hazen finds such questions childish.

Ann Snitow is co-editor of Powers of Desire: The Politics of Sexuality *(Monthly Review Press).*

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She records feminism's internal debates as if they were all going on inside one schizophrenic head. She has no taste for ambivalence, nor any ear for the ironic or subtle, nor finally any feeling heart for the suffering that is one theme of heterosexual fantasy. Difficulty she sees as a failure of good sense, and indeterminacy as weakness of will. At a time when both men and women are abandoning long-term sexual ties—and are often feeling abandoned by each other—Hazen scribbles frantically that there is only one shape female hope can take, *saecula saeculorum*: brutal ravishment, followed by male surrender and a promise of security. She clings fiercely to her assumption that the last word on female pleasure has already been spoken, that what women want is to be rescued, and that other pleasures they might think up will always pale in comparison, mere penis envy.

Some readers may find Hazen's no-nonsense pull-yourself-together tone refreshing. In fact, though, she is quite as furious as the feminists she tries to call to a fuzzy account. She fears feminists will steal what she loves; she must defend herself against the complexity and cacophony of feminist thought in order to save a precious kernel of self. She grudgingly admits equal pay *would* be nice; beyond that lies chaos and old night.

If only Hazen could examine her fear, she would be onto something. She's right that the new pleasures women are seeking, or trying to imagine in their art, feel less tangible, less reliable, than the old. She's right to be suspicious of anyone who tells her there's no pleasure in heterosexual love, and of anyone who insists that the only true metaphor for that love is brutal rape—so different from the ravishments of fantasy. She's right, too, to enjoy unashamedly the books that arouse and delight her. Feminist self-consciousness cannot instantly transform us. Are heterosexual women to have nothing but righteous anger and mature self-denial between now and the gender revolution? Feminism has all too often been suspicious or ignorant or moral about the mixed pleasures of the imagination, fearing that the female unconscious would drag down the aspiring conscious mind.

Finally, though, Hazen owes everything she thinks to feminism. All her cavils, her admonitions, are feminist in origin. She accuses feminists of having a "line," but her book's very sprawl shows how widely feminists have speculated. If feminists have sometimes confused fact and fantasy, Hazen is no more able to disentangle those levels of experience than the floundering thinkers whose intellectual ambitions she patronizes. The conventional world of marriage which is Hazen's nest, her jumping-off place for romantic dreams, is now perhaps the biggest fantasy of all—and fact and fantasy themselves are not the simple opposites her argument implies.

Hazen gloats over how often feminist novels collapse into some unexamined, failed, sad version of the romance plot. What is more amazing, surely, is how often those same novels evade or interrupt that ancient story line. Yes, feminists rage at men and yes, they also, often, hunger for them—a contradiction that, in the present state of things, makes perfect sense.

Anyone who explores the boundaries of gender takes a giant step into the dark. A number of writers and thinkers—men and women—have lit torches a little way out; these cast a flickering, often confusing light. To Hazen, the pleasures of women loving women, of female community, of female autonomy are utterly dim. She lights her torch briefly, when she insists that feminists must come to terms with the fantasy of rape at the heart of romance, but it fizzles right out. She's no help at all. □

Socialism Can Be Funny

PAUL BUHLE

IF YOU DON'T WEAKEN: The Autobiography of Oscar Ameringer. *Foreword by Carl Sandburg. Introduction by James R. Green. University of Oklahoma Press. 476 pp. $27.50. Paper $14.95.*

"Amerikans love caustick things; they would prefer turpentine tew colone-water, if they had tew drink either," wrote nineteenth-century comic Josh Billings. "So with their relish of humor; they must have it on the half-shell with cayenne." Or must we? American humor has been delivered with a straight face and a sharp elbow to the ribs. It has also been served with a twist of irony and a reassuring hint that things can be made better.

Humor of both varieties has been, much of the time, our most effective political weapon. Thomas Jefferson credited journalist Philip Freneau's barbed attacks on the Federalists with saving the early Republic. Lincoln considered David Locke (with his transparently self-seeking and hilariously reactionary Petroleum V. Nasby persona) a genius contributor to the Union cause; he would roam the White House after midnight to share Nasby's latest. Artemus Ward, Bill Nye and a horde of lesser wits chastened the postwar corruption of the Gilded Age. Soon after came the immigrant-radical comics, including the father of Jewish socialist journalism in America, Morris Winchevsky, who wrote under the byline "di Meshugina Filosof" (the crazy philosopher), and Emma Goldman's boyfriend, the anarchist agitator Johann Most, known as the "Rabelais of the proletariat." Then the hayseed native socialist jokesters pulled in. By the turn of the century, J.A. Wayland, whose newspaper *Appeal to Reason* would eventually reach a half-million people every week, was flaying his readers with lines like "Work, you slaves, so your master will make enough money out of you to buy a titled husband for his daughter, so she can live in Yurrup among decent people."

Enter the gentle satirist Oscar Ameringer. Son of a relatively freethinking mother, he endured schoolhouse beatings in his native Swabia rather than reveal her as the source of his anti-monarchist ideas. As a youngster, he sought out town Jews for their intelligence and their access to pulp literature. He was thought to have a future only at the end of a rope—or in America.

He landed in Cincinnati in that explosive year, 1886. After marching with German anarchists and members of the Knights of Labor in the May Day Parade, armed with a homemade dagger "in anticipation of the revolution just around the corner," he began to understand American ways of dealing with radicals. As he tells the story, the local police stood by while "we just marched and marched and sang and sang, until with burning feet and parched

Paul Buhle directs Tamiment Library's Oral History of the American Left at New York University and curates the traveling Radical Humor Art Show.

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throats we distributed our forces among the saloons along the lines of march where we celebrated the first victory of the eight-hour movement with beer, free lunch, and pinochle." In towns like Cincinnati, authorities satisfied themselves with blacklisting the likes of Ameringer; violent repression was reserved for the storm center, Chicago.

He might have become a bitter ex-radical or a sectarian socialist. Instead, Ameringer spent more than a decade on the road as a traveling musician, portrait painter and happy-go-lucky hobo. His jovial temperament endeared him to ordinary folk and led him to a casual study of American humor. A promising contributor to magazines like *Puck* and *Judge*, Ameringer had a rich future as a nonsense writer and literary iconoclast. Perhaps because he liked his adopted country so much, Jefferson, Henry George, Edward Bellamy and above all Mark Twain reached him long before Karl Marx did. But then the socialist bug bit him. In the early years of the new century he launched a Columbus, Ohio, newspaper advocating "industrial democracy," a mission he later likened to "feeding melting butter on the end of a hot awl to an infuriated wildcat."

Ameringer faced the wildcat in many guises over the next forty years. Educating and agitating from Louisiana to Oklahoma, he confronted racism in government policies and in working-class life, fighting the "grandfather clause" voting restriction and the Ku Klux Klan. Against the reigning theories of Marxism, he supported the tenant farmers' desire to own land. From the right, the government and vigilante justice hampered his run for Congress from Wisconsin in 1915 (he almost won) and his launching of a daily paper in Oklahoma City, a repressive place in 1917. From the left, "Direct Action" radicals, and later Communists, disdained his "slowshulism," his reliance on education and entertainment as a means of uplifting plain people. As Ameringer says proudly in his conclusion, he never weakened. Long after the socialist movement's precipitous decline, he remained the idol of rebel coal miners (whom he addressed under the ironic nom de plume Adam Coaldigger) and the editor of the weekly *American Guardian*, which held its 50,000 circulation almost until the eve of World War II.

Every encounter found Ameringer armed with his wit. Carl Sandburg, a friend and protégé from Milwaukee days, rightly says that at his best he equaled Artemus Ward and Petroleum V. Nasby in print, Will Rogers and Mark Twain on the platform. At one point he hooked up with a barnstorming hypnotist who would mesmerize a few listeners to act like Rockefeller so Ameringer could ask the audience why they let the Rockefellers hypnotize them every day of the week. He became a featured oratorical spellbinder at the vast Socialist tent meetings of the era, sharing the stage with the likes of Eugene Debs and Kate Richards O'Hare (and doubling as a musician: Ameringer and his three sons constituted a complete socialist orchestra). His history of American capitalism, *Life and Deeds of Uncle Sam,* sold more than 600,000 copies in fifteen languages. He's full of observations like this: "When a Puritan was caught telling a joke he was soaked in salt water and then buried alive under a weeping willow, while the sinner who laughed at the joke was roasted to death first and buried in unhallowed ground afterwards." Ameringer once even convinced an audience of Klan sympathizers to vote on the proposition that they had lost their minds! His engaging jests made listeners see the stupidity of both the system and their passive cooperation with it.

If You Don't Weaken, reprinted from its original 1940 edition, exceeds any other American radical autobiography in sheer charm, save perhaps Woody Guthrie's *Bound for Glory*. James R. Green, a leading authority on Southwestern socialism, convincingly interprets it as an important text in grass-roots radicalism. He might just as easily have treated it as a fundamental document of old-fashioned American humor, although now that I think of it, perhaps Ameringer gives us more sugar—or beer—than cayenne. Early on Ameringer learned something radicals forget at their peril, an insight epitomized in his lecture hall response to the disruptive yowl of an infant and the obvious embarrassment of its mother: "Now, folks, don't let that baby worry you. Someday he will be a great speaker, like me, but I can still outtalk him. Accordingly . . . " We might call it the need, or talent, to be merely human in the midst of incessant dehumanization. Surrounded by the usual cant about guns for peace and business subsidies for equal opportunity, that task requires just the right ironic touch. Langston Hughes put the same thought differently: "Humor is laughing at . . . what you wish in your secret heart were not funny, but it is, and you must laugh."

Tomorrow's comics, are you listening? □

FILMS.

ROBERT HATCH

Lonely Hearts
Merry Christmas, Mr. Lawrence
The Moon in the Gutter
La Passante

The Australians are known to be a cocky breed, and their film directors, now that they have become established on the international screen, are showing the trait. They are grinning at Hollywood clichés. It was noticeable in Bruce Beresford's *Tender Mercies*, which repeatedly sets up stock situations drawn from sentimental westerns only to evade them: the gang of toughs who boil out of the van are not intent on mayhem, and the hero, who has gone on the wagon for the love of a lady, does not drink the bottle of rye he has bought in a fit of despair. To be sure, the picture is as sweet as grandma's cordial, but the mocking of expectations lends it a sparkle.

Something similar occurs in *Lonely Hearts*, the first picture by Paul Cox to arrive here. A cousin to *Marty*, it is the tale of a timid, inarticulate, fragile love that transfigures a most unpromising couple. Peter Thompson is a piano tuner who, at the age of 50, has been released by the death of his mother to seek a life of his own. He enrolls in a dating service and is paired with Patricia Curnow, a considerably younger woman who senses that life should offer more than a job in a bank and the ministrations of suffocatingly insensitive parents.

The affair, developed with gratifying subtlety by Norman Kaye and Wendy Hughes, is agonizingly inept. Peter is anything but an accomplished lover, and Patricia is as skittish as a doe. Furthermore—and this is what moves the picture out of the rut of true love between ugly ducklings—these two are not just charming losers, offered for our patronizing approval. Life has deformed them. Peter wears a toupée, and it is more than a cover for his balding head. He plays games—stealing trifles

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from the supermarket and imposing on a solicitous client by putting on dark glasses and pretending to be blind. These are sad little ways of convincing himself that he is a bit of a dog, ways of getting back at fate for casting him as a male nurse for half his life.

Patricia, buttoned up to the neck and with her elbows and knees held tight, has denied her sexuality for so long that virginity has become a neurosis. She is pretty in the fleeting moments when she feels safe with Peter, but any hint that there is more to marriage than sharing a flat and an occasional evening at the concert hall turns her face wooden with alarm. Peter and Patricia are appealing in their struggle to grow up, but they cannot be dismissed as merely lovable. They have the virtue of their quirks: they stick in your mind. The movie ends happily, or so one hopes.

The obvious comparison for *Merry Christmas, Mr. Lawrence* is *The Bridge on the River Kwai.* Both are set in Japanese prison camps for British troops; both describe in brutal detail the prisoners' determination to survive. The earlier film was a superb melodrama; the present one (from a novel by Laurens van der Post) is gripping, but less fixed on heroics. Its theme is the clash of cultures.

The River Kwai was told almost entirely from the British point of view; *Merry Christmas, Mr. Lawrence* gives us both sides. The Japanese are governed by hierarchy, honor, discipline; they observe an inflexible code, and hara-kiri awaits any who offend against it. They despise the British for being alive; no Japanese soldier, they say, would ever surrender. For their part, the British are baffled by the rigidity and appalled by the histrionic rage of their captors. They demand to be treated as human beings and become impotently defiant when they are beaten for such insolence.

There is no meeting of minds except in the mind of Colonel John Lawrence (Tom Conti). A British officer who has lived long in the East, he speaks fluent Japanese and is proficient in the nuances of Oriental courtesy—so proficient that he can argue with his captors, even kid them, without triggering samurai explosions. He is always prepared to be conciliatory, but he never deviates from his goal, which is, of course, to save as many lives as he can. It helps a great deal that he likes the Japanese.

The role is difficult. Lawrence must be wise, tolerant, brave, cheerful and ingenious without appearing smug. He must remain cool and reasonable while everyone around him is tumbling about in an emotional barrel. He is quite the opposite of his colleague, Major Jack Cellierf (David Bowie), a golden-haired knight who, because of inner misgivings as to his moral courage, is bent on proving his physical valor and dies in the attempt. Lawrence could easily have been played as superman, which would have made the film trivial, but Conti handles the part with an easy, self-depreciating charm that wards off the curse of infallibility.

The picture was directed by Nagisa Oshima, who is admirably evenhanded in his treatment. There are more than a few decent men in *Merry Christmas, Mr. Lawrence*, but there are no villains. A flaw in his direction, and it is a minor one, is that he repeatedly allows the film to rise to what looks like a stirring conclusion. You expect the house lights to come up and then must settle back for yet another episode. The rhythm of Japanese movies differs from ours; as with the conflict in *Mr. Lawrence*, this results in a clash of cultural assumptions.

The Moon in the Gutter will attract audiences because its director, Jean-Jacques Beineix, made himself popular with *Diva* and because his new work features Gérard Depardieu and Nastassia Kinski, two of the reigning stars. Audiences will be disappointed. The movie is arty hokum played in slow motion, with operatic lighting and an unseen narrator solemnly prating nonsense. Depardieu seems to be walking in his sleep and Kinski looks out of place—as indeed does everyone on the most assertively artificial set since that of *The Cabinet of Dr. Caligari. Moon in the Gutter* is a murder mystery (someone has killed the hero's sister), but it is also very long. I left early, muttering to myself that no one deliberately makes a bad movie.

Another small French movie offering big stars is *La Passante*, with Romy Schneider and Michel Piccoli. It is well directed (Jacques Rouffio) and proficiently acted, but it annoyed me. In the first place, it is a tear-jerker that uses Nazi obscenity for sentimental ends, and in the second, it endorses an unacceptable premise. Max, the hero (Piccoli), is the director of an organization,

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not unlike Amnesty International, which is dedicated to the eradication of terrorism and violence. Nevertheless, he calls upon the ambassador to France of a Latin American country, pulls a revolver from his briefcase and shoots the man dead. He then publicly apologizes for his action and stands trial. The picture flashes back to show what torment Max, as a boy, had suffered from his victim, then an S.S. officer on Paris assignment. The court is deeply moved by his story; it lets Max off with a suspended sentence, and the spectators cheer him as he leaves the room to be reunited with his beloved. This is to say that special pleading can alter basic principles, a kind of having your moral cake and eating it. *La Passante* was Romy Schneider's last film and in it she played two parts—as Max's wife and as the woman who attempted to shield him from his persecutors when he was a boy. In the latter role, she brought some tragic substance to what is otherwise a superficial exercise in villainy. □

TO OUR READERS

With this column, Robert Hatch begins a three-month leave of absence. Katha Pollitt, *The Nation*'s literary editor, will be reviewing movies in his place.

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SOLUTION TO PUZZLE NO. 1977

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R	■	E	■	G	■	D	■	S	■	H	■	M	■	A
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C	U	R	A	T	O	R	■	E	M	P	E	R	O	R
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■	K	I	N	D	E	R	■	M	O	R	P	H	I	A
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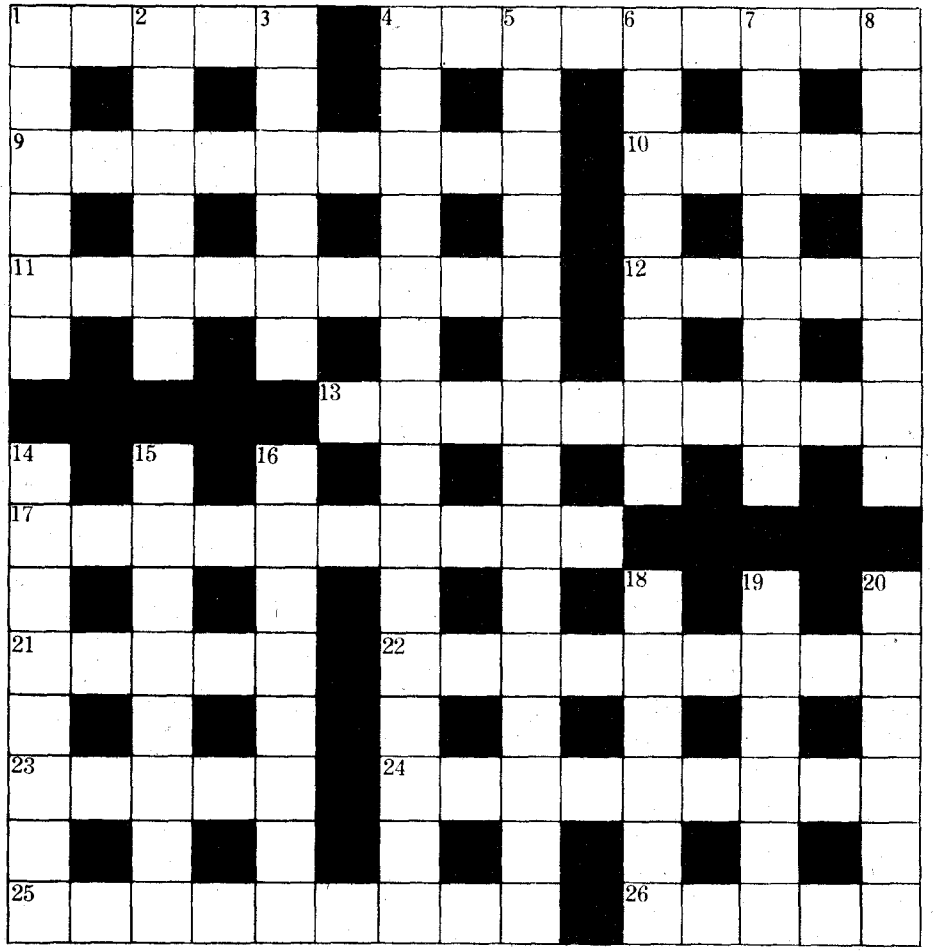
FRANK W. LEWIS



ACROSS

1 What might be loud in Bambi would be put off by it. (5)
4 Half a cow to steal—by accident? (9)
9 The losing side might, compared with the winners—and go home this way. (9)
10 Steal something from the arsenal, perhaps. (5)
11 Things might be stuffed with Longfellow's strange device. (9)
12 Leave a letter out (not necessarily for the postman). (5)
13 One way to save on the fare, perhaps, but not dependable. (3-2-5)
17 Lie natural on one side only. (10)
21 What one might have to do to an employee—but it's reputedly hard to do so with a live wire. (3,2)
22 I ration it, for a starter! (9)
23 What the engineer does for the so-called girl? (5)
24 Cheer up! An ounce gets spilled with anger! (9)
25 One who has just come over in style, rope thrown around. (9)
26 See 2 down

DOWN

1 A British longshoreman can perhaps be responsible for the detailing. (6)
2 and 26 across *A votre santé*—you might prefer it at breakfast. (6,5)
3 How June days were observed by the poet? (6)
4 Not what is meant by a Caesarean operation—you might have to pay extra for it. (7,8)
5 If asked to do so, one might say "a section of seats," or "a coterie"—or make one's rounds. (8,1,6)
6 Occasionally clippers, more likely cutters—their operations might be expensive theater productions. (8)
7 What is it refining? Refining—which could be trespass. (8)
8 The rudimentary principles of atmospheric agencies? (8)
14 What we sometimes make at the corner for a period, as the British say. (4,4)
15 His technique might be excellent, with objets d'art having nothing so conclusive. (8)
16 Blind with jealousy, as the French say! (8)
18 The dance may be slow, but there's only a little time to change for it. (6)
19 Layers of this discovered at art's uplifting performance. (6)
20 Perhaps it has a secret pairing with Abraham's place and the common man. (6)

SEE LAST WEEK'S SOLUTION AT LEFT

PUZZLED?

No more cross words; write for a free copy of Frank W. Lewis's "ground rules" c/o *The Nation*. Learn why "little skipper" is a "truant."

X-523

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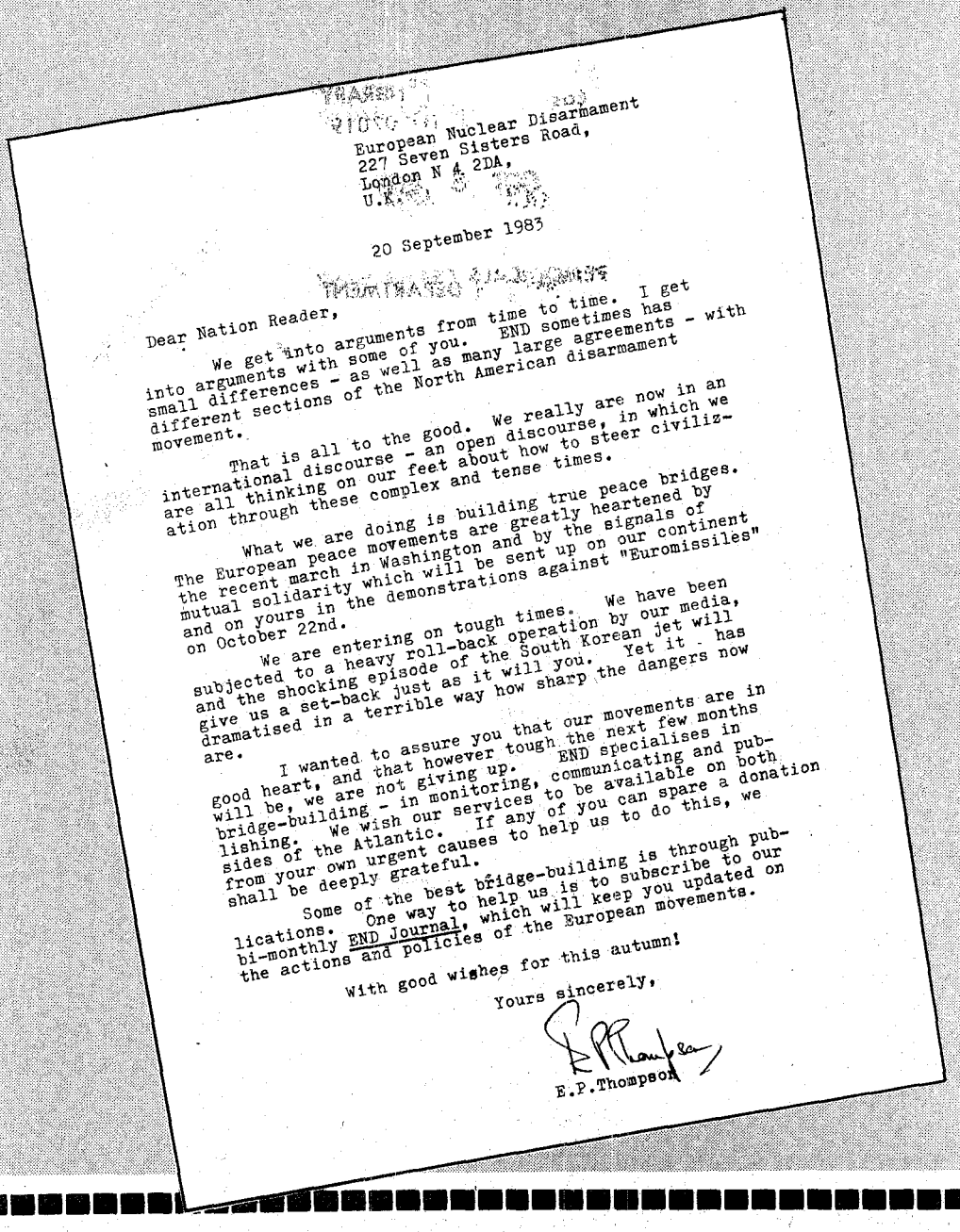

European Nuclear Disarmament
227 Seven Sisters Road,
London N 4 2DA,
U.K.

20 September 1983

Dear Nation Reader,

We get into arguments from time to time. I get into arguments with some of you. END sometimes has small differences - as well as many large agreements - with different sections of the North American disarmament movement.

That is all to the good. We really are now in an international discourse - an open discourse, in which we are all thinking on our feet about how to steer civilization through these complex and tense times.

What we are doing is building true peace bridges. The European peace movements are greatly heartened by the recent march in Washington and by the signals of mutual solidarity which will be sent up on our continent and on yours in the demonstrations against "Euromissiles" on October 22nd.

We are entering on tough times. We have been subjected to a heavy roll-back operation by our media, and the shocking episode of the South Korean jet will give us a set-back just as it will you. Yet it has dramatised in a terrible way how sharp the dangers now are.

I wanted to assure you that our movements are in good heart, and that however tough the next few months will be, we are not giving up. END specialises in bridge-building - in monitoring, communicating and publishing. We wish our services to be available on both sides of the Atlantic. If any of you can spare a donation from your own urgent causes to help us to do this, we shall be deeply grateful.

Some of the best bridge-building is through publications. One way to help us is to subscribe to our bi-monthly END Journal, which will keep you updated on the actions and policies of the European movements.

With good wishes for this autumn!

Yours sincerely,

E.P.Thompson

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